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The Solicitors' Journal

VOL. LXXX. **Saturday, January 18, 1936.** No. 3

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Current Topics.

Chancery Masters.

THE changes announced on the Chancery side, consequent on the retirement of Sir JOSEPH CHITTY, namely, the appointment of Master HOLLAND to be Chief Master, and the appointment of Mr. TREVOR CLYDE NEWMAN to be the new Master to fill the vacancy caused by Sir JOSEPH CHITTY's resignation, may make it of interest to recall something of the history of this office. In very early days there were, besides the Master of the Rolls, eleven other Masters in Chancery to whom the court referred questions of fact which required lengthy examination of witnesses or documents and the taking of accounts, and having carried out this work they made reports to the court. As Mr. JOHN RITCHIE tells us in the interesting introduction to his collection of cases decided by LORD BACON, two of the Masters usually sat in Court with the Lord Chancellor in readiness to give assistance if called upon. They were almost always members of the Bar, several of whom being eventually promoted to the Bench, among those in comparatively late days being Sir RICHARD KINDERSLEY, who was appointed a Vice-Chancellor in 1851, shortly before the abolition of the office of Master in Chancery. Although this designation was abolished, there had to be those to perform the duties which the Masters had formerly carried out, and then came those who were called Chief Clerks, who in turn at a later date were very properly given the more dignified title of Masters in the Chancery Division, and the importance of their work and the admirable way in which it is discharged are familiar to all practitioners on that side of the courts. As is fitting, in view of the class of work which falls to them, only members of the solicitor branch are eligible for appointment.

Dean of Faculty.

THIS office at the Scots Bar, which is the equivalent, as nearly as may be, to that of *Batonnier* in France, has just been rendered vacant by the death of the holder, Sir WILLIAM CHREE, K.C., who was appointed by his brethren to this position of eminence in 1932. As Dean, the holder is the head of the Scots Bar, presiding at all meetings of the Faculty, and generally guiding its deliberations on all questions which come before it. In court, custom has given him precedence next after the Lord Advocate who, as is generally known, is the chief Scottish law officer, and thus corresponds to the Attorney-General with us with this difference, however, that not he but the Dean, as already said, is the head of the Bar. At one time there was a claim by the Solicitor-General to take precedence in court over the Dean, but eventually the claims of the latter prevailed. A long line of distinguished advocates have attained the post of Dean, and time and again its tenure has been the prelude to promotion to the Bench. Among those of the past to be elected was FRANCIS JEFFREY, afterwards LORD JEFFREY, but best remembered now for his skilful editorship of the *Edinburgh Review* in its palmy days. On his appointment as Dean of Faculty his old friend SYDNEY SMITH wrote offering his heartiest congratulations, adding, somewhat cruelly but in conformity with his jocular propensity, that "here in England our Deans have no faculties."

"Client Account."

THE January issue of *The Law Society's Gazette* contains an interesting note on counsel's reply to a question propounded by the Council of The Law Society concerning the distribution of moneys standing to the credit of the "client account" of a solicitor who had died insolvent. Moneys standing to the credit of that account are, in the view of Mr. W. N. STABLE, K.C., whose opinion was taken, trust moneys, and as such not available for distribution among the general body of creditors other than clients of the solicitor on whose behalf the money is held, unless the credit balance is in excess of the total sum payable to the clients. The Solicitors Act, 1933, does not effect any great alteration in the law relating to this topic, but as between the clients and the unsecured creditors the effect is to dispense with the necessity for actually tracing the trust moneys into the particular account and so to remove a possible source of litigation and contention. The opinion goes on to deal with the position where the fund is insufficient to meet the whole of the claims of the clients. As between such clients the rule in *Clayton's Case* (1816), 1 Mor. 572, must, in counsel's opinion, be applied. Their claims do not abate *pari passu*, but the sum standing to the credit of the account at the date of the failure is deemed to represent the money belonging to the *cestui que trust* last paid in. His claim is satisfied in full and so on up the list until the fund is exhausted. We desire to express our indebtedness to the above-mentioned publication for being able to place this information before our readers.

Assisting Discharged Prisoners.

THE annual report, for 1935, of the Central Discharged Prisoners' Aid Society, which has just been published, shows that 446 cases were dealt with during the year. Of the 307 cases classified as general, and received from judges, Members of Parliament, the police, local Discharged Prisoners' Aid Societies, public and other bodies, private persons, and on personal application, only two are described as "unworthy, re-arrested or refused aid offered." Assistance was given in each of the 139 difficult cases and work found in 114.

Fifteen themselves found work. The report states that at the outset it cannot be easily determined what are the far-reaching effects of imprisonment on some individuals, and that it is only after intensive work and special care with each case that success has been secured. Typical cases are given of those who have been able to make a fresh start thanks to the good offices of the society. "That even hardened offenders," the report states, "can be retrieved from crime is abundantly proved by the success achieved, despite the limited funds, by the Discharged Prisoners' Aid Society. To carry on the work on an adequate basis in all cases would undoubtedly involve increased expenditure. Hope, encouragement and confidence mean everything to any man in life's struggle. With increased funds we can bring them hope and help them with our practical sympathy and stimulate their courage and ambitions. The vast majority of men in prison really desire to live honest lives again. But they need our help to go forth to realise their aim; so, while there is life, we should see to it that as far as our part of the question is concerned there is the possibility of hope also." The committee expresses the gratitude of the society to, among others, those who have responded to the appeal for the employment of suitable discharged prisoners. A meeting of the society, at which Lady Melchett will preside and Sir John Simon and Sir Chartres Biron will speak, is to be held on 3rd February. Admission will be by ticket obtainable from the offices of the society, Victory House, Leicester-square, W.C.2.

Young Delinquents.

Having on a number of occasions referred in this column to the subject of young delinquents and the problems associated with the proper treatment of these offenders, it is fitting that a statement recently made by Sir Archibald Bodkin at the Dover Quarter Sessions should be placed before our readers. On being presented with a pair of white gloves as there were no cases to be heard, the learned Recorder said—we quote from *The Times*—that it was the second time in succession that there had been no business to transact at the sessions, which was very creditable to the police and the community. He noted with regret that since last sessions five of the six cases dealt with by the justices were in respect of boys under fourteen for stealing. Probably the most satisfactory way of dealing with that class of offender was by putting them under a probation officer. All over the country young people up to the age of eighteen were continually discovered committing acts of dishonesty and sometimes violence. He did not know what the explanation was, but he thought that one of the primary causes was that parents did not exercise their authority as in olden days, when it was conceivable that if a boy went wrong he would be physically punished by his father. Such punishment had now rather gone out of fashion, and though it had to be judiciously resorted to there were cases in which it might have good results. We think it will be generally agreed that in some of the cases of this character much trouble to the community and to the offenders themselves might have been saved by a little trouble at home.

The Thirty Miles an Hour Speed Limit: Road De-restriction.

It will be remembered that s. 1 of the Road Traffic Act, 1934, provides as, what may be termed, the *primâ facie* test of a built-up area for speed limit purposes the existence along a stretch of road of a system of street lighting furnished by lamps not more than 200 yards apart, but that roads less frequently lighted may, by direction, be deemed to be within such an area, while, conversely, roads with the aforesaid standard of lighting may nevertheless by direction be de-restricted. Within the London Traffic Area directions of this character are given by means of orders made by the Minister of Transport after the prescribed public notice and after consultation with the London and Home Counties Traffic Advisory Committee. Beyond the said area the order is made by the "local authority"—defined in sub-s. (9)—after notice and consultation with the chief officer of police, and with the consent of the Minister (*ibid.*, sub-s. (4)). Directions may be revoked in like manner. Sub-s. (5) of the same section provides: "If the Minister is satisfied that the local authority have failed to give a direction that a length of road shall be deemed not to be a road in a built up area in a case in which such a direction ought to have been given, or have failed to revoke a direction that a length of road shall be deemed to be a road in a built-up area in a case in which the direction ought to have been revoked, he may make an order giving or revoking the direction, as the case may be: Provided that, before exercising his powers under this sub-section, the Minister shall give to the local authority notice of his intention of exercising those powers and, if . . . the local authority represent to him that the direction ought not to be given, or . . . revoked . . ., he shall hold a local inquiry . . ." in which case s. 47 of the Road and Rail Traffic Act, 1933 (replacing s. 114 of the Road Traffic Act, 1930), applies.

The Minister and Local Authorities.

In a recent letter to *The Times* mention is made of the surveys undertaken last year by local authorities by the direction of the Minister of Transport and of the decisions reached concerning roads which, although lit up to the required standard, were considered suitable for exemption from the speed limit. The letter continues: "Subsequently after representations from the motoring organisations, the Minister approached these authorities with a suggestion of a further exercise of their powers of de-restriction, and where a local authority on the score of public safety has not seen its way to act on this suggestion, its decision has in many, if not indeed in most, instances been overruled at Whitehall." This, it is stated, has happened not only as regards small towns, where the local councils might have been thought to have taken too narrow a view of public interests, but in some of the largest cities in both England and Scotland. It is urged, moreover, that these decisions of the Ministry have been arrived at "generally after local inquiries, not such as those directed by the Act of 1934, but conducted by the Ministry's own inspector and directed mainly, it would seem, to ascertaining what support was forthcoming for the de-restriction proposals of the motoring associations." The writer goes on to suggest that the procedure has not been that contemplated by Parliament, while it is claimed that the results so far have given serious concern to those who look to the imposition of speed limits in suitable areas as one of the most hopeful means of reducing accidents, "for," it is said, "up to the present five-sixths of the roads in question (149 out of 178) have been de-restricted, in whole or in part." The writer continues: "This has been done practically, if not technically, in opposition to the views—often very strong views—of the city council or other local authority, and in many instances in spite of the fact that accidents had been fewer since the speed limit came into force."

A Reply.

In the course of a reply by the Ministry of Transport, duly published in *The Times*, an official pointed out—as is, indeed, sufficiently clear from the foregoing letter—that the 178 roads referred to form but a small section of those which have been dealt with by orders to which the Minister has given his consent under the Road Traffic Act, 1934. Some 750 lengths of road provided with a system of street lighting which would ordinarily bring them within s. 1 of the Act have been de-restricted, while the speed limit has been applied to more than 3,000 lengths of road not so lighted. The high proportion of cases dealt with by inquiry, in which the Minister has taken the view that de-restriction was desirable, is, it is

urged, accounted for by the fact that local inquiries have been necessary only when in the opinion of the Minister there was a *primâ facie* case for de-restriction and the local authority had not agreed. Moreover, the twenty-nine cases in which no further action has been taken by Whitehall are cited as indicative of the fact that the Minister is ready to modify his preliminary conclusions in the light of the information afforded by the inquiries. The Act itself is invoked against the suggestion that the procedure adopted has not been that contemplated by Parliament. We have already quoted above the relevant portions of the Act, the effect of which, the official stated, is that, where the Minister is satisfied that a road ought to be, and has not been, de-restricted by the local authority, he can himself make an order de-restricting it, but that if the local authority concerned represents to him that he should not make the order, he should hold a local inquiry before doing so. It is added that the obvious intention of the section was that the Minister should not de-restrict a road against the wishes of the local authority without giving them an opportunity of being heard. He has considered that the course, which was most in the interests of all parties and in no way inconsistent with the intention of Parliament, was to hold inquiry under his general powers for the purpose of informing his mind at an early stage. This, it is claimed, affected neither the scope nor the impartiality of the inquiries.

Police Car Injuries.

THE "Current Topic" on this subject in our last issue may be followed up by noting two suggestions which have been made in order to minimise as far as possible the dangers associated with the pursuit of suspects by police cars. A recent paragraph in *The Times* states that hitherto the drivers of police vehicles have acted on the assumption that escaping criminals must be captured, and have themselves risked personal injury in the process. Collisions brought about by skilful police driving have been by no means infrequent and on occasion cars containing suspects have been rammed. One suggestion is that when chasing suspects, the police should sound a siren. Another is that such tactics as those just referred to should be prohibited in built-up areas. The establishment of hard and fast rules is, however, deprecated as impracticable for police drivers, who, when pursuing suspects, have to make quick decisions according to the circumstances of the moment. With regard to the first suggestion, it is pointed out that in the recent case in which a civil servant was killed when a police car was pursuing a stolen car, the gong fitted to the former was sounded repeatedly. Meanwhile the motoring police are exercising the greatest care, and the Commissioner of Police of the Metropolis has asked for the present methods to be reviewed, with a view to their modification where necessary in order to avoid danger to the public.

A Marine Insurance Abuse.

THE attention of readers may be drawn to a statement made by BRANSON, J., at the close of his judgment in *Compania Naviera Vascongada* v. *British and Foreign Marine Insurance Company Ltd.* (*The Times*, 16th January), where the defendants had subscribed a policy of £13,500 relating to the hull, materials and machinery of a ship for an amount of £844 and were held liable in respect thereof. Contentions that the ship had been scuttled, or, alternatively, that she had been sent to sea in an unseaworthy condition with the privity of the plaintiffs, were negatived. The onus of proof in such a case that the loss was fortuitous lies on the plaintiffs, but scuttling is a crime, and the court will not find that it has been committed unless it is proved with the same degree of certainty as is required for the proof of a crime. In regard to the practice, which has been said to be common, of underwriters leading shipowners to insure vessels for more than their real value so that higher premiums should be payable, the learned judge observed: "I should like, before parting with this case, to express my concurrence with the expressions of disapproval which have fallen from other judges of the practice of underwriters of over-insuring ships against total loss. The practice is wholly bad. It turns what should be a contract of indemnity into a kind of lottery, with a prize for the fortuitous loss of the ship. It must discourage even the most upright of shipmasters in the discharge of his duty to bring a damaged ship into port, if he possibly can, and it tempts the dishonest to commit the crime of scuttling."

Rules and Orders.

THE Fees (Compensation for Manorial Incidents) Schedule, 1935, (Stationery Office, price 1d.) is the short title of a draft and provisional rule made by the Minister of Agriculture and Fisheries, in accordance with the Inclosure, etc., Expenses Act, 1868, and other enabling powers with the object of fixing the fees to be charged by the Ministry in respect of transactions under the Property Acts, 1922 and 1924, resulting from the extinguishment of manorial incidents under s. 138 (1) (*c*) of the Law of Property Act, 1922. A notice dated 7th January, 1936, states that in pursuance of the Rules Publication Act, 1893, the Minister proposes, after the expiration of forty days from the date of the publication thereof in the *London Gazette*, to make a statutory rule for the purpose of fixing the aforesaid fees.

Section 6 (1) of the Affiliation Orders Act, 1914, confers on the Ministry of Health powers to issue such new or altered forms of proceedings in matters of bastardy as may be deemed necessary or expedient for giving effect to existing Acts relating to such proceedings as amended by that Act. Section 14 (1) of the Money Payments (Justices' Procedure) Act, 1935, contains a similar provision for the purpose of giving effect to the enactments relating to such proceedings as amended by that Act. In pursuance of these powers the Bastardy (Forms) Amendment Order, 1935 (S.R. & O. 1935, No. 1307), which was referred to in our last issue (80 SOL. J. 35) has been made. The Bastardy (Forms) Amendment Order, 1932 (S.R. & O. 1932, No. 488), is revoked, and new forms of warrants are provided in substitution for Forms 18–21 in the Schedule to the Bastardy (Forms) Order, 1915 (S.R. & O. 1915, No. 208). The new order came into force on 1st January, 1936.

Recent Decisions.

IN *Rex* v. *Mortimer* (*The Times*, 14th January) the Court of Criminal Appeal dismissed the appeal of one convicted of murder. The prisoner in a car followed the deceased and knocked her off her bicycle, causing injuries from which she died. The ground of appeal was that evidence of assaults on three other women was wrongly admitted. The court held that such evidence was of the very kind it was proper to admit. The appellant admitted that it was he who had taken the car and it was fundamental to prove that his intention was either to kill or to cause grievous bodily harm. Great care, it was observed, should be taken to reject such evidence unless it was really necessary to prove something which was in issue.

In *Carr, otherwise Fowler* v. *Carr* (p. 57 of this issue), the purported marriage of one under sixteen years of age was declared null and void: see Age of Marriage Act, 1929, s. 1 (1).

In *Manners* v. *Manners and Fortescue* (*The Times*, 16th January) a Divisional Court of the Probate, Divorce and Admiralty Division rescinded a decree *nisi* for dissolution of marriage and directed that the case be put in the defended list for re-hearing on the application of the respondent wife, who alleged that she had not been served with the petition or been guilty of adultery. The application was granted in accordance with the provisions of r. 46 of the Matrimonial Causes Rules, 1924, to the effect that an application for the re-hearing of a cause heard by a judge alone "where no error of the court at the hearing is alleged" shall be made to a Divisional Court and not to the Court of Appeal.

Recent Scottish Decisions in Company Law.

I.—Borrowing Transaction *ultra vires* of Directors.

The Court of Session recently decided the case of *Gillies* v. *Craigton Garage Co.* (1935), S.N. 23; S.C. 423, by applying the old and well-known "Rule in *Turquand's Case*" (*Royal British Bank* v. *Turquand* (1856), 6 E. & B. 327), which, as stated in Topham's "Company Law," is, "So long as the act done is not inconsistent with the Memorandum and Articles of Association an outsider is not bound to enquire whether all the necessary steps have been taken. That is, he is entitled to assume that the directors have acted properly."

The plaintiff had lent the defendant company the sum of £750 and the latter had granted a security over their real property in a form familiar to Scottish conveyancers, an *ex facie* absolute disposition qualified by a collateral agreement. In ordinary circumstances, on repayment of the loan, the creditor executes a re-conveyance of the property to the debtor. One of the articles of the agreement, however, was that in the event of the defendants becoming, *inter alia*, notour (publicly) bankrupt, the right to a re-conveyance of the subjects referred to should cease.

It was not disputed that, after the transaction, the defendant company became for a time notour bankrupt, and that they were served with notice to vacate the subjects and refused to do so. The defendants maintained that the loan transaction had been *ultra vires* of their directors, and that the transaction itself and the security given were both accordingly void. The articles of association of the company included Art. 73 of Table A of the Companies (Consolidation) Act, 1908, and the directors were, therefore, prohibited from borrowing moneys in excess of the issued share capital of the defendants without the sanction of the latter in general meeting. It was admitted that the loan of £750 taken along with sums already borrowed exceeded the issued share capital, and that the loan transaction had been entered into by the directors without the defendants' sanction, and was, accordingly, outwith the directors' borrowing powers.

The plaintiff maintained that the rule of *Turquand's Case* applied, but the defendants argued that it was distinguishable as the circumstances of the loan transaction were such as to put the plaintiff on his enquiry as to whether the transaction had been duly sanctioned. The plea of the defendants, however, was in conflict with the opinion of Jervis, C.J., in *Turquand's Case*: "We may now take for granted that the dealings with these companies are not like dealings with other partnerships and that the parties dealing with them are bound to read the statute and the deed of settlement. But they are not bound to do more."

The First Division of the Court of Session, on the authority of *Turquand*, as stated above, held that the plaintiff, in contracting with the defendant company, was entitled to assume that the arrangements for the loan had been duly sanctioned by the company, and declared that they had forfeited the right to hold and enjoy the real property occupied by them (the title to which was in the plaintiff's name), that the plaintiff was freed from the obligation to re-convey the said property to them, and ordained the defendants to remove therefrom.

II.—Power to Acquire Shares of Shareholders Dissenting from Amalgamation Scheme Approved by Majority.

Two shareholders of the Heritable Securities and Mortgage Investment Co. Ltd., presented a petition to the Court of Session under s. 155 of the Companies Act, 1929, objecting to a scheme put before the company by the Standard Life Assurance Co. Ltd., to acquire the shares and control, the price at which the shares were to be acquired being fixed at 38s. per share (*Kinross* v. *Heritable Securities and Mortgage Investment Co.* (1935), S.N. 25.) The scheme was approved by the holders of shares in the transferor company to the extent of over 99 per cent. in value. The dissentient shareholders asked the court to find that the transferee company was not entitled and bound to acquire the shares held by them at the price of 38s., and that the price per share at which their shares should be taken over should be 54s. 5d. or such other sum exceeding 38s. as the court might fix. The two companies concerned maintained that no valid ground existed for exempting the petitioners from the operation of the scheme, and that the application to fix the price of the shares at other than 38s. was incompetent.

Lord Carmont refused the application, holding (1) that under s. 155 the power of the court was limited to the granting to dissentient shareholders of an exemption from the obligation to part with their shares on the terms proposed in the scheme, but that it was not competent for the court to fix terms differing from those embodied in the scheme, and (2) that, to warrant an exemption on the ground of inadequacy of price, in cases where a large majority of shareholders approved of the scheme, there was a very heavy onus on the dissentients to show inadequacy, an onus which had not been discharged in the present instance by the petitioners.

Costs.

A COUNTY COURT POINT.

The case of *Newman* v. *Jones*, reported in vol. 3 of the "Law Journal County Court Reports," at p. 333, raises an interesting point in regard to county court costs. Very briefly the facts are that a firm of solicitors successfully prosecuted a county court action for recovery of a debt. They taxed their costs against the defendant on a party and party basis at the sum of £36 4s. 1d., but were unable to collect the amount. They accordingly rendered to their clients, the plaintiffs in the action, a bill of costs, made up upon a solicitor and client basis, amounting to £48 18s. 11d. The clients required the bill to be taxed under s. 118 of the County Courts Act. The registrar, on taxation of the solicitor and client bill, refused to allow it at any greater sum than the amount of the bill taxed on a party and party basis, on the ground, to quote from his answers to objections, that he "was not satisfied under s. 118 of the County Courts Act, that the client had agreed in writing to pay any costs not sanctioned by the scale." The judge decided, however, that the section was not to be read too strictly, and he sent the bill back for the registrar to revise his taxation.

It is interesting to look more closely into this point. Section 118 of the County Courts Act provides, in part, that: "All costs and charges between solicitor and client shall on application of either the solicitor or the client, but not otherwise, be taxed by the registrar of the court in which such costs and charges were incurred, but his taxation may be reviewed by the judge on the application of either party, and no costs or charges shall be allowed on such taxation which are not sanctioned by the scale then in force, unless the registrar shall be satisfied that the client has agreed in writing to pay them, in which case they may be allowed; and no solicitor shall have a right to recover from his client any such costs or charges unless they shall have been allowed on taxation."

Now one is struck, in the first place, on reading this passage, with the limitation imposed by the words "taxed by the registrar of the court in which such costs and charges were incurred." It may be inferred from the strict wording of this passage that nothing can be taxed by the registrar under s. 118 which does not relate to work performed or business done in the court itself. This accordingly rules out any possibility of purely non-litigious items being included in the solicitor and client bill, such, for example, as charges for letters and attendances before the action is commenced, and

letters and attendances after the action is concluded. These are not costs and charges incurred in any court at all. Where and how, then, could these costs be taxed ?

His Honour Judge Shewell Cooper, in the *Newman Case*, hinted that there are other means of getting these items allowed, although he took the view that so restricted an interpretation of s. 118 as necessitated the solicitor going elsewhere for his remedy, was inconsistent with the intention of the Act. He observed : " It seems to me that although this was a taxation under s. 118, the client might have asked for a taxation elsewhere, in which case I do not think there can be any doubt that items other than those allowed in the party and party bill would be allowed, and it would seem to be curious and anomalous if, by asking to have the bill taxed under s. 118, he is able to restrict his liabilities."

The " elsewhere " to which His Honour referred would seem to be Schedule II of the General Order of 1882, which provides the scale of costs in respect of business " not being business in any action, or transacted in any Court, or in the Chambers of the Judge or Master, and not being otherwise contentious business." The exact meaning of the word " contentious " may be open to discussion, but Mr. R. S. Wright, afterwards Mr. Justice Wright, delivered an opinion on the 13th January, 1888, in which he expressed the view that a case to counsel for his opinion as to whether or not an action will lie, is non-contentious business, and it may be inferred from this that any work done before the commencement of an action is non-contentious and therefore within the scope of the General Order, and, by inference, the same may presumably be said of work done after the action is concluded.

If, therefore, one is to give s. 118 its strict interpretation, then it would mean that the costs and charges arising before and after the action, would have to be taxed according to the scale prescribed by the General Order, whilst the costs and charges relating to the action itself, if such action was brought in a county court, would have to be taxed in the county court where the action was brought. This, as His Honour Judge Shewell Cooper observed, seems a curious and anomalous result, and it is only reasonable, notwithstanding the exact language of s. 118, that the whole of the costs as between solicitor and client should be taxed under the one authority. The result of this decision seems to be, therefore, that bills of costs taxed under s. 118 may include items other than those relating strictly to the action, and therefore items which are outside the county court scale. It will be interesting to see how this works out in practice.

One other point arises out of this case, and it is one upon which we have received enquiries before. The point is whether, in delivering a solicitor and client bill in the circumstances of the *Newman Case*, it is correct to include in that bill the items that have been allowed in the party and party taxation. It can be stated definitely on the authority of *In re Osborne* v. *Osborne* [1913] 3 K.B. 862, that this is the correct procedure. From the solicitor's point of view this practice, moreover, has its merits, because, as Buckley, L.J., observed in the latter case, it is not unlikely that an item may be allowed at a higher sum on a solicitor and client basis, than it was, in fact, allowed on a party and party taxation, and no such item would be reduced in amount. The learned judge cited as an instance the item " Instructions for Brief," but there are several other items to which this would apply.

The solicitor, therefore, stands to gain by this practice, and he should always see that when rendering his bill to clients, he includes the whole of the party and party items, and gives credit for the amount recovered on taxation from the opposite party.

The *Glasgow Herald* announced last Tuesday that Lord Hunter proposes to retire from the Bench of the Court of Session on 5th February. Lord Hunter, who is senior judge of the Court of Session, has been on the Bench for twenty-five years.

Company Law and Practice.

When the Knowledge of a Director is that of his Company.

It is a not uncommon event for officials of a company—such as a director, the secretary and so forth—to acquire, either directly or indirectly and perhaps by way of a chance remark, knowledge of certain circumstances and facts affecting, or likely to affect, their own corporation. In such a case, the important point may arise whether, as a result, the company has notice of the facts contained in the information in question. In other words and put broadly—is the knowledge which a director acquires necessarily notice to his company ? It is not difficult to give a general answer to the problem, but that would be of very little value, besides being apt to mislead, without some previous consideration of the cases bearing on the point ; for that reason it is as well to discover for ourselves the view that the courts take of the matter.

We should, first of all, bear in mind that the rule, that notice to one partner in an ordinary trading partnership amounts to notice to all the partners, does not apply to a joint stock company : *In re Carew's Estate Act* (*No.* 2), 31 Beav. 39. In that case, the court accepted the decision in *Powles* v. *Page*, 3 C. B. Rep. 16, that knowledge of a particular fact relating to the accounts by one director is not to be imputed to the company, when that director had no voice in the management of the accounts, and the money transactions of the company were exclusively conducted by a manager appointed for that purpose, under the control and direction of three directors, of whom the director possessing the knowledge in question was not one. On lines similar to these, it was decided in *Peruvian Railways Company* v. *Thames and Mersey Marine Insurance Company ; In re Peruvian Railways Company*, 2 Ch. 617, that the knowledge of a director that bills indorsed for value to his company were bills which had been accepted for the accommodation of the drawer, the director not having been concerned on behalf of his company in the transaction in which the bills were indorsed to them, did not affect the company with notice of the fact that they were accommodation bills. See also *In re Contract Corporation ; Claim of Ebbw Vale Company*, 8 Eq. 14. A study of these cases afford us some useful assistance when one director and one company is concerned, but when the knowledge is acquired by a director who is common to two companies concerned, the question obviously becomes more involved.

There are many authorities on this last-mentioned point, and I do not think we can do better than look in the first place at the decision in *In re Marseilles Extension Railway Company : ex parte Crédit Foncier and Mobilier of England*, 7 Ch. 161. To put it shortly, the facts were that two directors of A company were also directors of B company, and both companies employed the same solicitor. A company owed money to their contractor which was not payable immediately, but this gentleman had bought shares in the company and the stock-brokers were pressing him for the money. A company agreed to advance him £7,000 and it borrowed the money from B company on security of a mortgage. One of the persons who was a director of both companies negotiated the loan, and the mortgage was prepared by the solicitor who acted for both companies. A company was authorised by its articles to borrow money but not to buy up its own shares. Subsequently, both corporations were wound up, and the Court of Appeal held that B company was not affected by notice of any illegality in the purpose to which the money borrowed was to be applied ; therefore B company was entitled to prove against the estate of A company under the winding-up. Sir G. Mellish, L.J., in his interesting judgment, used these words, at p. 168, with reference to the position of a director who is common to two corporations : " . . . I cannot think that, because he was a common director to the two companies,

we are on that account to say that the one company has necessarily notice of everything that is within the knowledge of the common director, and which knowledge he has acquired as director of the other company. It appears to me that a director is simply a person appointed to act as one of a board, with power to bind the company when acting as a board, but having otherwise no power to bind them." Again, at p. 170, Sir W. M. James, L.J., observed that he was unable to understand how a director of a company going to borrow money from another company could put the company from whom he borrows it in any different position from that in which a joint stock bank would be placed by a director of it asking a loan for himself. Should it be imputed to the banking company that they have knowledge of everything the director knows about his own private affairs? Such a proposition seemed to his lordship—as no doubt it also does to my readers—to be most unreasonable.

This decision was considered at some length in *In re Hampshire Land Company* [1896] 2 Ch. 743, where Vaughan-Williams, J., remarked that its effect was to make untenable the broad contention that, whenever there is a common officer of two societies, the knowledge of such officer personally is to be imputed to both the societies employing him. But, as he went on to point out, that having been established, the difficulty is to know where the line is to be drawn; in other words, what is the test to be applied in order to say whether or not in such case the knowledge of the common officer is the knowledge of each company employing him? In his view, the court in *In re Marseilles Extension Railway Company, supra*, drew the line thus (to use the words of Vaughan-Williams, J., at p. 748): "... the knowledge which has been acquired by the officer of one company will not be imputed to the other company, unless the common officer had some duty imposed upon him to communicate that knowledge to the other company, and had some duty imposed on him by the company, which is alleged to be affected by the notice, to receive the notice." Furthermore, he pointed out that in *In re Marseilles Extension Railway Company*, in his opinion, the test applied by the court was this: First, was it within the scope of the duty of the officer to give notice to the other company of the information he had got; and, secondly, was it within the scope of his duty, as the officer of the company sought to be affected by notice, to receive such notice? But if the common officer has been guilty of fraud, or even irregularity, the court will not draw the inference that he has fulfilled these duties; that proposition is established by the case of *In re Hampshire Land Company*. It is based on the foundation stone of common-sense, and further strengthened by the decision in *In re Carew's Estate Act* (*No.* 2) (to which I have already made some reference) that, where a director is about to commit a fraud, it is to be presumed that he will not disclose the circumstance to his colleagues.

This test was applied in the case of *In re David Payne & Co., Ltd.: Young* v. *David Payne & Co., Ltd.* [1904] 2 Ch. 608. The broad effect of the decision was that where a company has a general power to borrow money for the purposes of its business, a vendor is not bound to inquire into the purposes for which the money is intended to be applied, and the misapplication of the money by the company does not avoid the loan in the absence of knowledge on the part of the lender that the money was intended to be misapplied. The material facts of the case were that K was a director of A company and also of B company. He ascertained in his private capacity that B company intended to borrow a certain sum of money for a purpose outside the scope of its business; K then induced A company to advance the money to B company upon the security of a debenture of the latter company, and the money was applied by B company in the proposed manner. The memorandum and articles of association of the last-mentioned company conferred upon it a general power of borrowing for the purposes of its business. K was the only director of A company who knew the intended method of application of the money. It was strenuously contended that K's knowledge ought to be imputed to A company, the lenders, but this contention did not find favour with the Court of Appeal. Vaughan-Williams, L.J., gave it as his opinion that at the moment when K began acting on behalf of the company, the transaction was of such a nature that there was no obligation on the part of the lending company to inquire to what purposes the borrowed money was going to be applied, and there was no obligation upon K to receive or disclose any such information. It appeared to Romer, L.J., that knowledge independently acquired by a director in his personal capacity in respect of a matter which was irrelevant so far as concerned the lending company was knowledge which could not be imputed to the company, for it was knowledge of something which really did not concern the lending company as a matter of law; therefore one could not imply a duty on the director's part to have told these facts to the company, or a duty on the part of the lending company to have inquired into that question. In these circumstances, the debenture securing the advance was held to be a valid security.

The case of *In re Fenwick, Stobart & Co., Ltd.: Deep Sea Fishery Company's (Limited) Claim* [1902] 1 Ch. 507, is another instance where the question arose. It was held there that, where a man acts as secretary of two companies, it is not true as a general proposition that a fact which comes to his knowledge as secretary of one company is notice to him as secretary of the other company from the mere existence of the common relationship; for it to be notice, it must be shown that it was his duty to the first company to communicate his knowledge to the second company. It appears from the report that the attention of the court was not called to the case of *In re Hampshire Land Company*, in which, as we have seen, the principle was clearly laid down: however, Buckley, J., was in no doubt about the matter, and, in the course of his judgment, said: "I think that the true test is this: Where a man holds a double character, it is not necessary that he should write a letter from himself in one character to himself to inform himself in another character. What the court has to see is whether the information he gets, as secretary of the one company, comes to him under such circumstances that it is his duty to communicate it to the other company. Suppose, for instance, as secretary of the first company he learns something which it would be a breach of his duty to that company to communicate to the other company. I should say certainly that is not notice to the other company. It depends upon the circumstances relating to the particular case." See also *Lagunas Nitrate Company* v. *Lagunas Syndicate* [1899] 2 Ch. 392, 431, per Lindley, M.R.

A recent decision, in which the point arose, is that of *J. C. Houghton & Co.* v. *Nothard, Lowe & Wills, Ltd.* [1928] A.C.1. Restrictions of space preclude me from even a short consideration of the facts in that case; they were very involved, and I must refer my readers to the report itself for them. There are some concise observations by Lord Dunedin and Lord Sumner in that report, at pp. 14 and 18 respectively, on the means of knowledge possessed by a company as distinct from an ordinary natural person, and on the consequences which ensue when the person who is that means of knowledge has committed some fraud or irregularity in respect of the matters in question. The words of Vaughan-Williams, L.J., in *In re Hampshire Land Company*, at p. 749—"... I decline to hold that his knowledge of his own fraud or of his own breach of duty is, under the circumstances, the knowledge of the company"—together with his preceding observations, to which I have referred previously, were quoted and approved; and, for the rest, the test of "duty," which we have considered to-day, does not appear to have been affected thereby.

A Conveyancer's Diary.

Mortgages by Sub-demise. The Nominal Reversion.

It is a question of some interest as to the effect of the transitional provisions of the L.P.A., 1925, regarding expectant upon a sub-term created by way of mortgage of leaseholds more particularly where there has been a sale by the mortgagee.

Take the case where there has been a sale by a mortgagee in exercise of his statutory powers.

It is enacted by para. 3 of Part II of the 1st Sched. to the L.P.A. as follows :—

"Where immediately after the commencement of this Act any person is entitled, subject or not to the costs of tracing the title and of conveyance, to require any legal estate (not vested in trustees for sale) to be conveyed to or otherwise vested in him, such legal estate shall, by virtue of this Part of this Schedule, vest in manner hereinafter provided."

Paragraph 6 (*d*) reads :—

"(*d*) In any case to which the foregoing sub-paragraphs do not apply the legal estate affected shall vest in the person of full age who, immediately after the commencement of this Act, is entitled (subject or not to the payment of costs and any customary payments) to require the legal estate to be vested in him but subject to any mortgage term subsisting or created by this Act."

Paragraph 7 (sub-para. (*m*)) added by the L.P.A. (Amendment) Act, 1926, reads so far as material as follows :—

"7. Nothing in this part of this Schedule shall operate :—

(*a*) To vest in a mortgagee of a term of years absolute any nominal leasehold reversion which is held in trust for him subject to redemption.

(*m*) To vest in any person any legal estate affected by any rent, covenants or conditions if, before any proceedings are commenced in respect of the rent, covenants or conditions, and before any conveyance of the legal estate or dealing therewith *inter vivos* is effected he or his personal representatives disclaims it in writing signed by him or them."

Before 1926 there were three ways in which mortgages by sub-demise were created so far as regards the nominal reversion ; (1) where the mortgagor declared himself to be a trustee of the nominal reversion for the mortgagor. To this was often added a provision that upon any sale by the mortgagee under his power of sale, the mortgagee might either transfer the nominal reversion or appoint a new trustee thereof in place of the mortgagor. Under a provision in those terms the mortgagee usually appointed a purchaser from him to be a trustee in place of the mortgagor and vested the reversionary term in the purchaser by means of a vesting declaration ; (2) where there was no declaration of trust but the mortgagor irrevocably appointed the mortgagee his attorney to dispose of the nominal reversion. In such a mortgage there was often a power given to the mortgagee, when entitled to exercise his power of sale, to substitute any other attorney or attorneys in his place. The mortgagee might therefore, under such a mortgage, either transfer the reversion to a purchaser as attorney of the mortgagor or appoint the purchaser an attorney in his place ; and (3) where there was neither a trust declared of the nominal reversion nor any power of attorney to the mortgagee to assign it.

It will be noticed that para. 2 of the First Schedule to the L.P.A. only refers to a case where the owner of a legal estate is entitled "to require any other legal estate in the same land to be surrendered, released or conveyed to him so as to merge or be extinguished." A purchaser from a mortgagee by sub-demise, if he should be entitled to a conveyance of the term expectant upon the mortgage term, is not so entitled in order that the reversionary term for which he is entitled to call may be merged or extinguished. In fact, if he should take an assignment of the reversionary term, it is the sub-term (i.e., the mortgage term) which will be merged or extinguished, not the reversionary term.

Paragraph 2, therefore, does not apply.

Reverting to para. 3, it seems to be plain that in any case where a mortgagee by sub-demise was entitled at the commencement of the L.P.A., 1925, to require the term expectant on the mortgage term to be vested in him, that term automatically vested in him whether he liked it or not. The result of that automatic vesting was that the mortgage sub-term became merged in the head term and the mortgagee became liable to the head lessor for the rent and covenants of the head lease.

It remains, therefore, to be considered when the mortgagee by sub-demise became entitled to call for the head-term to be vested in him under one or other of the forms of mortgage by demise in use when the L.P.A., 1925, came into force. I think that this only took place under (1) before mentioned, that is, where there was a trust created of the nominal reversion. Under (2) the mortgagee was not entitled to call for a conveyance of the head-term but was simply in the position of an attorney of the mortgagor, with power to transfer it in his name or on his behalf ; and, of course, under (3) the mortgagee had no right or interest whatever in the head-term.

It follows that where in a mortgage by sub-demise created before 1926, there is a trust of the nominal reversion, whether with or without a power in the mortgagee to appoint a new trustee in place of the mortgagor (either on the exercise of the statutory power of sale or otherwise) the sub-term automatically merged in the head-term upon the commencement of the L.P.A., 1925, and the mortgagee became and remains liable for the rent and the observance and performance of the conditions and covenants of the head-lease.

That was a state of things which had apparently been overlooked by the draftsman of the L.P.A., 1925, and an attempt to remedy the oversight was made in the L.P. (Amend.) A., 1926, which added sub-para. (*m*) to para. 7. That sub-paragraph is set out above, and it will be seen that it throws upon the mortgagee or his personal representative the obligation of disclaiming in writing the head-lease. That must be done before the head-lessor commences proceedings "in respect of the rent, covenants or conditions."

It seems, therefore, that in every case where the covenants in the head-lease are onerous the mortgagee should be advised to sign a disclaimer.

Landlord and Tenant Notebook.

Covenants to Repair Old Buildings.

There is, as was said in *Lane* v. *Cox* [1897] 1 Q.B. 415, C.A., no law against letting a tumble-down house ; but, apart from L.T.A., 1927, s. 18 (1), there are several authorities which bear out the proposition that a tenant covenanting to repair old buildings demised to him is in an unusually favourable position. The most recent and most striking case, *Torrens* v. *Walker* [1906] 2 Ch. 166, happens to be one in which the covenantor was the lessor ; but it was expressly laid down that the same rule of construction applied to landlords' covenants as to those entered into by tenants, so that a valid illustration is afforded. The premises were a two-hundred-year-old building in the West End of London—within a stone's throw of Piccadilly Circus, as the agents would put it—and had been let in 1890 for a term of eighteen years, but had failed to last as long. Indeed, their condition had attracted the attention of the London County Council, who had served the tenant with a dangerous structure notice, and then obtained a magistrate's order to enforce it. Repair in the ordinary sense of the word

was in fact out of the question; all that could be used of the building was part of the back wall. In these circumstances the tenant sued her landlord for damages (abandoning a claim for an injunction). Held, that repair being impossible, the covenant was not infringed.

Two older authorities were cited in the judgment: *Gutteridge* v. *Munyard* (1834), 1 Moo. R. 334, and the famous *Proudfoot* v. *Hart* [1890] 25 Q.B.D. 42, C.A.; while *Lister* v. *Lane* [1893] 2 Q.B. 212, C.A., was referred to. But a number of decisions, some of which have particular value, were not mentioned.

I think the oldest case in point is *Ferguson* v. *Anon.* (1797), 2 Esp. 589. The account given is somewhat sketchy, and it may be that the reporter's notorious deafness prevented him from recording the name of the tenant. But it appears that the latter had held from year to year, and was sued for waste rather than on a covenant. The scope of the plaintiff's claim appears from Lord Kenyon's judgment; after pointing out that such a tenant was liable for tenantable repair his lordship said, "but in the present case the plaintiff has claimed a sum for putting a new roof on an old worn-out house," and ruled against the plaintiff accordingly.

Then in *Mantz* v. *Goring* (1835), 4 Bing. N.C. 451, the action was brought, at the end of the defendant's term, on an express covenant to keep in tenantable repair, reasonable wear and tear excepted. Evidence was tendered and admitted to show that at the commencement of the term, namely in 1830, the premises were in a state of decay. The evidence in question was expressly limited to the general condition of the building. The jury awarded £55, being £100 less than the plaintiff had demanded. It was held that the evidence had been rightly admitted.

In *Payne* v. *Haine* (1847), 16 M. & W. 541, the tenant's first argument was that under a covenant to keep in repair he was not obliged to put into repair; but that, of course, was an old one by then, and it was once more ruled that keeping presupposed putting. But the court went on to hold that if premises were old at the time of the demise on such terms, all that could be required was that the tenant should put them into repair as old premises. Thus, he was not called upon to replace (as opposed to repair) buildings; and he need not substitute oaken gate-posts for posts of apple-tree wood (the property was a farm in Somerset) or to answer for gates which had fallen to pieces from age alone.

Possibly those who advised the plaintiff in *Scales* v. *Lawrence* (1860), 2 F. & F. 289, thought that a covenant to leave in repair would do more than a covenant to put or a covenant to keep into/in repair; at all events it was the failure to leave in repair, on the termination of a seven-year lease, that was made the substance of the claim. The tenant had spent a good deal of money at the commencement of the term, and as recently as 1858 he had laid out another £12 on the property; and in these circumstances the jury, having been told to decide the case partly by reference to the condition of the premises at the time of the demise, and to apply a "give and take" principle, found for the defendant.

Another example of the general principle which should be referred to is *Lister* v. *Lane & Nesham* [1893] 2 Q.B. 212, C.A. The claim was brought against tenants who were under a very stringent covenant to repair. The premises, a warehouse and other buildings on the Shot Tower Wharf at Lambeth, were at least a hundred years old. Their dilapidated condition was due partly to the nature of the soil not having been taken into account when they were built. A dangerous structure notice had been served, and it was found that nothing less than the operation known as underpinning would be of any use. It was held that a covenant to repair and maintain did not impose such an obligation. What is of some importance is that the judgments appear to lay some emphasis on the fact that the construction of the buildings was originally faulty. This led to an attempt to distinguish the facts from those of *Torrens* v. *Walker*, cited at the commencement of this article. But it was therein held that the origin of the trouble was not a vital factor. As Warrington, J., pointed out, it might be said that even a two-hundred-year-old structure was badly built if it showed signs of collapse, for there were many buildings which were much older and which were well preserved. Whether this proposition is not too wide is perhaps a question for a surveyor or architect rather than for a lawyer. But the way in which it was dealt with suggests that the true legal proposition is that a covenantor's obligations are to be construed by reference to the original nature of the building rather than by reference to its age, or, if the latter expression be used, that it must be emphasised that age does not bear the meaning of "old age." What one has to do is to visualise the position of the builder and see whether he erected a structure calculated to endure till the alleged breach. For if there are many buildings more than two hundred years old, there are also many which exhibit symptoms of senile decay long before that period has elapsed.

Our County Court Letter.

SHAREHOLDER'S RIGHT OF ACTION.

The rule in *Foss* v. *Harbottle* (1843), 2 Hare 461, was recently applied in *Lees* v. *Halsall and Others* at Birkenhead County Court. The action was brought for misfeasance and breach of trust against a former director and two present directors of the Tranmere Rovers Football Club Limited. The claim was for repayment to the club of £25 (alleged to have been improperly received as travelling expenses) and for damages, viz., £100. The plaintiff's case was that he was an ex-president of the club, and held 100 shares of 10s. each in the company, which had a nominal capital of 20,000 shares of 10s. each, of which 8,149 were issued. The plaintiff and the first defendant had been removed from office, at an extraordinary general meeting on the 25th July, but two of the other defendants were re-elected directors. The defence was that the annual general meeting had been held on the 26th September, when the company had ratified all the payments in question. The company had had no opportunity of saying whether it should become a plaintiff, but had merely been joined as a nominal defendant. His Honour Judge Whitmore Richards, having reserved judgment, upheld the preliminary objection. The company alone was *primâ facie* entitled to the relief claimed, and there was no evidence that the defendants controlled the majority of the shares or could preclude the company from suing. No steps had been taken by the plaintiff to induce the majority of the shareholders to take action, and he had no right to sue on behalf of other shareholders. The case did not come within any of the exceptions to the rule that a company, as opposed to an individual shareholder, must sue for damage sustained by the company. As the plaintiff had no cause of action, judgment was given for the defendants, with costs on Scale C. No opinion was expressed as to the merits of the action.

THE POWERS OF MARKETING BOARDS.

In a recent case at Westminster County Court (*Potato Marketing Board* v. *Setchell*) the claim was for £15 as the levy on three acres of potatoes in excess of the registered acreage. The case for the plaintiffs was that the registered acreage was allotted on the 1933 basis, and the levy was imposed to prevent an increase in acreage, which would cause a glut. The levy was basic, and would not recur, but was not imposed as a fine for punishing a producer. The scheme necessitated an estimate of supplies beforehand, and every effort was made to be impartial as between 70,000 registered producers. The defendant's case was that, in the fen district of Ely, about

21 acres were grown in excess, but only five were registered. Nevertheless he was the only grower sued, although his crop was ruined by late sowing (owing to delay in correspondence with the plaintiffs) and by dust storms. It had been necessary to plough in two of his three acres (in excess of the eight for which he was registered) and he had only had two tons per acre from six acres. His Honour Judge Dumas observed that the plaintiffs appeared to have arbitrary powers, and growers had no opportunities of making representations against the imposition of levies. The defendant's only course was to ask for an enquiry by the Ministry of Agriculture. Judgment was given for £15 and costs, payable at £1 a month.

In *Milk Marketing Board* v. *Robinson and Others*, recently heard at Halifax County Court, the evidence was that the plaintiffs had obtained judgment, and had issued execution. On the 5th October two bailiffs, accompanied by a drover and an auctioneer, had attempted to remove two cattle, which were driven back into a field by the defendants. Further obstruction was caused by letting numerous cattle into the same field, so that the execution could not be levied until the next day. His Honour Judge McLeary fined the defendants 10s. each.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

"Silence on the Bench."

Sir,—Your note on "Silence on the Bench," in 79 SOL. J., at p. 819, reminded me of one of the strongest attacks on the particular form of time-wasting to which you refer. In his judgment, in the case of *Federal Commission of Taxation* v. *Hoffnung*, reported in 42 Commonwealth Law Reports, at p. 62, Starke, J., enlivened that particularly dry case by commencing his judgment as follows:—

"This is an appeal from the Chief Justice, which was argued by this court over nine days, with some occasional assistance from the learned and experienced counsel who appeared for the parties. The evidence was taken and the matter argued before the Chief Justice in two days. This case involves two questions, of no transcendent importance, which are capable of brief statement, and could have been exhaustively argued by the learned counsel in a few hours."

E. H. COGHILL,
Librarian.

Supreme Court Library,
Melbourne.
9th December, 1935.

Reviews.

The Law as to Gaming, Betting and Lotteries. By ALFRED FELLOWS, B.A. (Cantab.), of Lincoln's Inn, Barrister-at-Law. 1935. Demy 8vo. pp. xxvii and (with Index) 203. London, Liverpool, Birmingham and Glasgow: The Solicitors' Law Stationery Society, Ltd. 15s. net.

The exposition of the law relating to gaming and betting demands the greatest clarity of thought and expression. Many of our ethical ideas on the subject of betting are conventional morality, and vary greatly from epoch to epoch. This, together with the fact that changing social conditions require new laws to repress a vice which admittedly leads to poverty and misery, produces the accumulation of what the author of this work calls a patchwork of Tudor, Stuart and Hanoverian statutes. The result has been, to quote the author of this work, that "our law as to betting and gaming . . . fails even in the modest virtue of clarity" and "to the confusion of statutes is added a welter of authorities." The author has brilliantly achieved his invaluable purpose of reducing the chaos of statutes and case law to order and clarity without sacrificing any of the comprehensiveness necessary to a really useful reference work. The scope of the work is indicated by the fact that it contains references to over 450 cases and seventy-five statutes, the latter starting with the Gaming Act, 1541. In spite of this fulness of detail, the subject matter has been presented in an easy, narrative style which facilitates reference and attracts the general reader. Every department of the subject is dealt with in separate chapters, Wagering and Insurance, Agents and Intermediaries, Partnerships, Companies, Income Tax, Civil Procedure, Offences, Lotteries, the Tote, Pool Betting, and many ancillary subjects. Each subject is exhaustively and intelligently analysed and contains "all the latest news," including decisions as recent as *Coles* v. *Odhams Press Limited* (1935), 79 SOL. J. 860, the crossword puzzle case, and *R.* v. *Sandbach* [1935] 2 K.B. 192, on the position of street bookmakers' "sentries," and, of course, the whole of the Betting Act, 1934. No one whose work is concerned with any part of this subject can afford to be without this serviceable and comprehensive guide to what would otherwise be a pathless wilderness.

"The Times" House of Commons Guide, 1935. Royal 8vo. pp. (with Index) 188. London: The Times Office. 2s. 6d. net.

This guide to the new House of Commons provides a complete record of the recent General Election. It contains an alphabetical list of the members of the new Parliament, together with their biographies, and also those of the defeated candidates; lists of members of the last Parliament who have been defeated; a record of the votes polled by women candidates; and a survey of the General Election. There are, in addition, numerous tables and statistics, and a map showing the results of the election. The guide is bound in cloth and is a useful reference book.

The Companies' Diary and Agenda Book, 1936. Edited by HERBERT W. JORDAN, Company Registration Agent. Foolscap folio. London: Jordan & Sons, Ltd. 4s. net.

This is the fifty-third year of publication of this well-known book. In addition to the diary portion, which has two full pages for each week, there are pages for memoranda and a quire of ruled foolscap for agenda or other notes. The book also contains more than seventy pages of notes on company law and practice, stamp duties, registration fees, and other useful information.

The Solicitors' Diary, Almanac and Legal Directory, 1936. Edited by R. W. D. SANDFORD, B.A., Solicitor. Demy 8vo. London: Waterlow & Sons, Ltd. Cloth gilt, 8s. net. Half-bound, law calf, 10s., 12s. 6d. and 15s. net.

This diary, which is in its ninety-second year of publication, contains, in addition to the diary portion, about 900 pages of useful legal information, including treatises on the Stamp Act and on estate, succession and legacy duties. There are lists of London and provincial barristers-at-law and of London and country solicitors, most of the addresses being given in full, and also lists of county courts, recorders, town clerks, coroners, etc.

Books Received

The Rent and Mortgage Interest Restrictions Acts, 1920 to 1935. by ARCHIBALD SAFFORD, of the Middle Temple, Barrister-at-Law. Eighth Edition, 1936. Demy 8vo. pp. xxxii and (with Index) 275. London: Sweet & Maxwell, Ltd. 8s. net.

Both Sides of the Dock. By CHARLES KINGSTON. 1936. Demy 8vo. pp. (with Index) 286. London: Andrew Melrose, Ltd. 16s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Forfeiture of Lease to Company.

Q. 3261. A lease of certain property was granted to a limited company containing a proviso for re-entry on certain events, including the event of an order being made for the winding-up of the company. A compulsory winding-up order has recently been made and a liquidator appointed. The landlord desires to enforce the forfeiture. Can he do so, and what steps are necessary for this purpose? It is presumed an application to the court will have to be made before proceedings can be commenced. Has the court any discretion to refuse the application? What are the usual terms imposed upon a landlord wishing to re-enter under these circumstances?

A. The landlord can apply by summons (in the winding-up proceedings) for the delivery up of possession by the liquidator. The court has a discretion to refuse the application, e.g., if the occupation of the premises by the liquidator will preserve the assets, and the liquidator is able to show that the rent can be paid. The court can give leave to distrain for any instalment of rent in arrear, instead of ordering the liquidator to give up possession. The usual terms imposed are that the order for possession will be suspended as long as the rent is paid (or recovered by distress), and that possession shall not be retaken without the leave of the court, on further application.

Agricultural Holdings Act, 1923.

Q. 3262. In a tenancy agreement of an agricultural holding executed in 1920:—

(1) In addition to the certain rent there was reserved "an additional contingent rent equal to one-half of the money from time to time expended by the landlord in executing the repairs, works of upholding, renewals and replacements specified in the third part of the second schedule hereto." ". . . The additional contingent rent in respect of repairs shall be from time to time paid in one sum on demand and shall be recoverable by distress but shall not continue as a periodical payment."

(2) The tenant covenanted at his own sole cost to execute repairs, etc., specified in the first part of the second schedule thereto, to farm the holding in a good and husbandlike manner and according to the most approved methods of agriculture in the district, and not to commit or permit waste of any description.

(3) The landlord covenanted to execute "at the sole cost and charge of the landlord (*a*) the repairs and renewals specified in the second part of the second schedule hereto (*b*) and the repairs and works of upholding renewals and replacements specified in the third part of the second schedule hereto, subject to repayment of one-half of the cost by the tenant as hereinbefore provided." There is a proviso requiring notice in writing to be given to the landlord of any want of repair.

(4) The third part of the second schedule is headed "Repairs which have to be executed by the landlord at the joint cost of landlord and tenant," and continues: "All repairs and works of upholding and renewals and replacements including the painting of outside woodwork and ironwork other than those specified and provided for in the first and second parts of this schedule which the landlord may consider necessary upon the holding."

The tenancy has expired and the landlord has made a claim against the tenant for half the cost of certain repairs alleged to fall within the third part of the second schedule. These repairs have not been executed by the landlord and may never be executed, the claim being based upon an architect's report. The tenant has never had, and can never have, any benefit from the repairs. Can the claim be resisted, and, if so, upon what grounds?

A. The claim can be resisted on the ground that the amount is stated to be recoverable as "an additional contingent rent." The latter is also made recoverable by distress. As the tenancy has expired, all liability for rent has expired, except in respect of any arrears at the termination of the tenancy. The amounts now claimed have not been "expended" by the landlord, and the contingency has therefore not arisen, under which those amounts could be claimed as rent. As the tenancy has expired, the contingency cannot now arise. The claim should therefore be resisted on the above grounds.

Alterations to Shop.

Q. 3263. A shop has been demised by A to B and sub-demised by B to C and by C to D. D is now anxious to demise to certain other parties and to make certain alterations in the shop front, but whether these are an improvement or not can only be described as doubtful and it would appear that they are merely altering the premises to suit the requirements of a particular tenant. The lease provides no alterations or additions shall be made without the consent of the lessors. D has applied through the intermediate lessees to A to consent to these alterations and A has replied after taking his surveyor's advice that he is willing to consent to the sub-demise and also to the alterations subject to an undertaking being given by B the immediate lessee under s. 19 (2) of the Landlord and Tenant Act, 1927, to reinstate the premises in the condition they were in before the alterations were executed, of course leaving it to B to obtain a similar undertaking from C and for C to do likewise from D. B and C are not willing to give this undertaking though D is prepared to give his undertaking to A direct, but A refuses to give his consent to the alterations unless he receives B's undertaking. Is A's attitude justified? Please give authorities.

A. A's attitude is justified, as there is no privity of estate between him and D. By accepting D's undertaking, A might find himself confronted (in future) with the plea that he had impliedly waived some of his rights against B—if the occasion ever arose for proceedings against B. There are no authorities directly in point.

Apportionment of Rent.

Q. 3264. A became the sub-tenant of two furnished rooms in a six-roomed house in November, 1914, at the rent of 12s. 6d. per week. Here he remained, with the exception of a break from May to December, 1916, until 1920. In this year the tenant of the whole house gave up her tenancy, which was transferred to B and C, who were formerly co-sub-tenants with A. The furniture was removed, and in November, 1920, A paid an inclusive rent of 8s. 8½d. for the two unfurnished rooms to B and C. B and C commenced almost at once to raise the rent, which in July, 1921, stood at 10s. 4½d., at which figure it has since remained. A considers that the rent is excessive, as he has reason to believe that the rent which B and C pay for the whole house is only 12s. 6d. a week, in addition to which there are payable by them the rates which

amount to approximately 6s. a week. A has been, and still is, in arrears with his rent and wishes to have the rent apportioned. Can his sub-tenancy be construed as a "separate letting"? Also, if the rent is reduced, does this reduction operate retrospectively? The rateable value at present is £25, and the half-year's rates, with water charges, amount to £7 12s. 9d. In 1914 the rateable value was £18, and the total rates amounted to £4 0s. 11d.

A. A's sub-tenancy can be construed as a separate letting. If the rent is reduced, the reduction operates retrospectively for the period of six months. Under the Rent, etc., Restrictions Act, 1923, s. 8 (2), any sums overpaid by way of rent are recoverable for that period.

Town Planning Scheme.

Q. 3265. My clients are contemplating purchasing property on which there is a covenant restricting buildings other than "shops." As my clients wish to erect a public-house, they are not sure whether this would come under the heading of "shops." Will you please advise: A district has been zoned under the Town Planning Acts for general business purposes. The owner of certain business premises in this area, with living accommodation above, wishes to cease business and use the premises as a private dwelling-house only. (*a*) Can he be prevented from doing so by the town planning authority? (*b*) Could the owner of a dwelling-house in a residential area be prevented from turning part of his premises into a shop?

A. A public-house is one in which a retail trade is carried on and would therefore be a "shop" within the restrictive covenant. The latter is not the decisive factor, however, as the licensing justices have an overriding jurisdiction. With regard to the further questions (*a*) and (*b*), these matters will be dealt with by the particular scheme for the district, copies of which are doubtless obtainable at the offices of the local authority. Unless there are exceptional circumstances, the answer to both questions is in the affirmative.

Mortgagee and Reputed Ownership.

Q. 3266. A, the builder, some time ago, commenced building operations, and he arranged with B to finance him on the buildings to be erected at various stages in the construction, and the legal charge in favour of B set out therein that the future advances on the building not exceeding the specified amount agreed were to be advanced by such instalments payable at such times in relation to the progress of the work as certified by B's surveyor. The legal charge also contains a clause as follows: "Provided always that if the Mortgagor shall fail to complete the aforesaid dwelling-houses within three months from the date hereof or if after completion the property shall fall into disrepair the Mortgagees may at any time thereafter enter the said land and complete such dwelling-houses and may for that purpose use any materials and plant belonging to the Mortgagor which may be upon the said land or may carry out such repairs as they consider necessary and all expenses incurred by the Mortgagees in exercise of the power conferred by this clause shall be repaid and shall be deemed for all purposes to be added to the principal moneys hereby secured and shall bear interest and be secured and payable accordingly." A, before completing the houses, got into difficulties financially and a petition in bankruptcy was presented by certain builders' merchants. After the issue of the petition in bankruptcy and before the same was heard by the court and the adjudication in bankruptcy made, B took possession of the premises, and at the time of taking possession there was a considerable amount of loose material, such as bricks, pipes and timber purchased in connection with the premises being erected lying on the land on which the houses were being erected, and of which B took possession. B now claims that the loose building material on the land at the time that possession was taken formed part of the security and that he is entitled to the benefit of the same. The trustee in bankruptcy disputes that B is so entitled and that the goods were in the possession, order and disposition of the bankruptcy. B denies that they could be in the possession, order and disposition of the bankrupt at the date of the adjudication order as he had taken possession. An expression of your opinion will oblige.

A. Under the Bankruptcy Act, 1914, s. 37, a bankruptcy is deemed to commence at the time of the act of bankruptcy upon which the receiving order is made. The date of the adjudication order is therefore not the important date. As the mortgagee had not taken possession at the time of the act of bankruptcy, he cannot claim the plant and materials as against the trustee. Even if the mortgagee could claim them against the trustee, a further point would arise as to whether the suppliers of the bricks, etc., could claim their return, in default of payment.

Death of Vendor between Contract and Completion—Specific Devise for Life after Contract—Destination of Proceeds of Sale.

Q. 3267. On the 11th May, 1923, Miss F made her will (home-made) and gave Mrs. H (her co-tenant in common) her interest in Blackacre for life. The will contained no residuary devise or bequest. On the 4th May, 1935, Mrs. H and Miss F entered into a contract for the sale of Blackacre. On the 29th May, 1935, Miss F died. Is Mrs. H entitled to Miss F's moiety of the proceeds of sale of Blackacre, for life, or does such moiety form part of testatrix's residuary estate, as to which she died intestate?

A. For the purposes of this reply it is assumed that Miss F died between contract and completion. The rule appears to be that the personal representatives of a deceased vendor who dies between contract and completion must hold the proceeds for the residuary legatee (if any) unless the vendor has subsequent to the contract specifically devised the land sold (*Drant* v. *Vause* (1842), 1 Y. & C.C.C. 580). If this rule is applied to this case, then it appears that Mrs. H takes no interest in the moiety of the proceeds of sale part of the estate of Miss F, and that that moiety is at once divisible (as personalty) among those entitled in the intestacy of Miss F.

Enfranchised Copyholds—Steward's Compensation where existing Steward Re-appointed by New Lord after 29th June, 1922, and where Deputy Steward appointed Steward after that date.

Q. 3268. I shall be glad if you will give me your opinion on the following points: (1) If a lord of a manor dies after 29th June, 1922—the date of the passing of the L.P.A., 1922—and the new lord re-appoints the old steward, is such steward entitled to compensation when compensation agreements are entered into? Part I of the 14th Sched. to the L.P.A., 1922, provides that a steward appointed *after* the passing of the Act shall not be entitled to compensation. (2) In some manors I know there was a steward and a deputy steward and the stewards have died. The deputy stewards, who have, I think, now been appointed stewards, claim that they are entitled to steward's compensation on the ground, I understand, that in Pt. IX of the Copyhold Act, 1894, and Pt. V of the Manorial Incidents (Extinguishment) Rules, 1925, the expression "steward" is defined as including a deputy steward. I submit that this is an erroneous interpretation, and that it would be against the intention of the Act to give compensation to stewards appointed after the passing of the L.P.A., 1922, on the ground that they were deputy stewards before.

A. (1) We do not think so. He owes his office to the new lord's appointment. (2) We agree with the view expressed by our subscriber. So long as there was a steward the deputy was not a "person for the time being filling the character of or acting as steward . . ." (see L.P.A., 1925, s. 143 (1) and C.A., 1894, Pt. IX, s. 94).

To-day and Yesterday.

LEGAL CALENDAR.

13 JANUARY.—On the 13th January, 1857, William Pierce, James Burgess and William Tester were tried at the Old Bailey for their part in the great bullion robbery on the South Eastern Railway, when 300 lbs. of gold, worth £12,000, vanished on the journey between London Bridge and Paris, leaden shot being substituted in the boxes. One of the prisoners was the guard and the other two had also been in the service of the company. Two of them were sentenced to fourteen years' transportation, and the third, being acquitted on one count, got off with two years' imprisonment. They were only caught through the denunciation of an accomplice sentenced for another crime and made desperate by a mean fraud committed by Pierce in respect of some money which he had entrusted to him.

14 JANUARY.—Edward Willes was the son of John Willes, a "silk" who later rose to be Chief Justice of the Common Pleas. In 1768 he became a Justice of the King's Bench. There he remained for nineteen years, outliving all his original colleagues, save Lord Mansfield. Besides a certain flippancy of manner and neglect of dress, the only other notable point about him was his refusal of the customary honour of knighthood. He died on the 14th January, 1787.

15 JANUARY.—The excitement of the rabble in favour of the notorious Tichborne claimant became so intense towards the end of the trial that on the 15th January, 1874, as Mr. Hawkins and Serjeant Parry, the counsel for the prosecution, were leaving the court, they were assailed with hisses by a large crowd. Two police inspectors and several constables formed a cordon to protect them, but a growing mob followed them along Great George-street, and the traffic was temporarily suspended. It was found impossible to close the great gates into St. James' Park, but a line of police barred the way and the two learned counsel proceeded safely home.

16 JANUARY.—Mr. Justice Maule died on the 16th January, 1858, after over eighteen years' judicial service in the Courts of Exchequer and Common Pleas.

17 JANUARY.—On the 17th January, 1783, Daniel McGinnis was tried for the wilful murder of John Hardy, a hatter of Newgate-street, where he lodged, by stabbing him with a bayonet which entered his heart. We are told that "this unhappy accident was occasioned by some water thrown out of Mr. McGinnis's window on Mr. Hardy's skylight, who going upstairs to remonstrate with Mr. McGinnis, words arose, which proceeded to this fatal extremity." In spite of this little display of temper, it is nice to know that "Mr. McGinnis had a most excellent character given him as a quiet, harmless, inoffensive and humane person by gentlemen of great rank." Probably on this account a merciful view was taken, and he got off with two years' imprisonment.

18 JANUARY.—On the 18th January, 1793, Lord George Gordon, the instigator of the riots of 1780, appeared in the King's Bench, after spending five years in Newgate for libel. He was now required to give bail. After his "No Popery" fanaticism, he had turned Jew, wore a large slouched hat and had an enormous beard. His hat he would not take off, and the crier having been ordered to remove it, he took from his pocket a small white cap which he tied on with a handkerchief. He then gave the officer of the court "The petition of Israel Abraham George Gordon," which, read aloud, proved to be an apology to the court and a justification from Jewish writers for always appearing with the head covered. Having no suitable securities, he was sent back to Newgate where he died.

19 JANUARY.—When the Sessions ended at the Old Bailey on the 19th January, 1791, the Common Serjeant passed sentence of death on twelve persons, including two women and a boy of thirteen; seventeen more were sentenced to seven years' transportation; three got off with imprisonment in Newgate, and six with a term in the Clerkenwell Bridewell; nine more were to be publicly and five privately whipped. One man escaped sentence by enlisting as a soldier in the East India Company's service.

THE WEEK'S PERSONALITY.

Thanks to his caustic wit, Mr. Justice Maule is probably better remembered to-day than any other early Victorian judge. Certainly, since the recent growth of agitation for divorce law reform, the mordant criticism of the divorce law of his day, embodied in his address to a bigamist convicted before him in 1845, has become famous. He brought to the practice of his profession a rare combination of gifts. He was learned in the law and outside it, being particularly distinguished in mathematics. He was a first-class advocate, fertile in illustration, fluent in expression and irresistably witty, with a memory which retained all the facetiæ he had ever read. Yet his progress at the Bar was at first slow, and it was only gradually that he gained recognition. After his appointment to the Bench he proved himself an excellent judge as well as an amusing one. His law was sound and his witticisms were a constant source of mirth in Westminster Hall. He possessed one minor talent, rather odd for a judge, a singular dexterity in picking locks with no other appliance than a piece of stout wire. This accomplishment he had acquired through a habit of constantly losing his keys, and not only could he open locks, sometimes beyond the skill of professional locksmiths, but he could close them again too.

A WITCHCRAFT TRIAL.

Vienna recently enjoyed the supernatural thrill of a witchcraft trial, when a woman was charged with causing another woman "to collapse paralysed as the result of mysterious hypnotic passes." The defence was as mediæval as the charge, for the accused declared that she could watch all the activities of the spirit world and that the air around the sick woman "was so thick with demons trying to paralyse her that I made mystic passes to banish them, but was not strong enough." The judge, so she told him, was surrounded by guardian angels, "all creatures of light, who are telling you to find me not guilty." Evidently the angelic hosts triumphed, for she was acquitted. This case recalls the "spectral sight" which was so prominent a feature of the New England witchcraft trials in the seventeenth century. Thus, on the trial of George Burroughs, a minister of Salem, the witnesses against him interrupted their testimony exclaiming that they saw the ghosts of his two former wives who had promised them they would come, though no one else in court saw them. Burroughs was found guilty of wizardry and hanged.

AT THE LAST MOMENT.

When a young man entered the dock at Folkestone Quarter Sessions recently, a member of the Bar, unrobed and speaking from the public part of the court, asked for an adjournment, explaining that he had just come from Reigate, having only received instructions for the defence after midnight. The recorder, however, intimated that he could neither hear him nor accede to his request. On a small scale, the scene recalls an incident in the life of the great O'Connell when, one Sunday in 1829, an exhausted horseman arrived at his home in Kerry to beg him to go to Cork, ninety miles away, to defend three men who were to be tried for their lives next day, and whom only his advocacy could save. All through the night, his carriage rolled along the rough mountain roads of Glenflesk and Ballyvourney, past magnificent vistas, enormous shadows, abrupt gorges and waving woods. "At 10 o'clock that morning," he afterwards wrote, "after that glorious feast of soul, alas! I found myself settled down amid the rascalities of an Irish court of justice." The judge had already refused an adjournment pending his arrival, when a storm of cheers announced him. Striding straight into court, he apologised for his unprofessional costume and obtained leave to take some refreshment. What a scene! The Solicitor-General opening

the case. O'Connell gulping a bowl of milk and a sandwich, listening to his junior's account of the facts and constantly interrupting the prosecution with fatal accuracy. He secured an acquittal.

Obituary.

SIR WILLIAM CHREE, K.C.

Sir William Chree, K.C., Dean of the Faculty of Advocates and Procurator of the Church of Scotland, died in Edinburgh on Friday, 10th January, at the age of seventy-seven. Admitted to the Bar in 1892, he took silk in 1912, and in 1923 was appointed Procurator of the Church of Scotland in succession to the Hon. William Watson, K.C., now Lord Thankerton. He was appointed Dean of Faculty in 1932, and in the same year he received the honour of knighthood.

SIR MONTAGU COX.

Sir Montagu Hounsel Cox, J.P., Barrister-at-Law, and formerly Clerk to the London County Council, died at Llandudno on Tuesday, 14th January, in his sixty-third year. He was educated at Cranleigh and was called to the Bar by Gray's Inn in 1902. In 1904 he became Clerk of the Education Committee of the L.C.C., and in 1915 was appointed Deputy Clerk of the Council. He became Clerk to the Council in 1925 and held that office until his retirement in 1933. He received the honour of knighthood in the year of his retirement.

MR. A. G. BERRY.

Mr. Albert George Berry, solicitor, of Cheapside, E.C., and Kingston Hill, died at Kingston Hill on Saturday, 11th January. Mr. Berry was admitted a solicitor in 1891.

MR. J. A. DONNISON.

Mr. John Alfred Donnison, solicitor, head of the firm of Messrs. Donnison & Son, of Leadenhall-street, E.C., and Highgate, died on Monday, 13th January, at the age of sixty-eight. Mr. Donnison was admitted a solicitor in 1890.

MR. R. W. ELDER.

Mr. Robert William Elder, solicitor, senior partner in the firm of Messrs. Mayo, Elder & Rutherfords, of Throgmorton-avenue, E.C., and Liverpool, died in London on Thursday, 9th January, at the age of sixty-six. Mr. Elder was admitted a solicitor in 1896.

MR. C. B. HILL.

Mr. Charles Bexfield Hill, solicitor, partner in the firm of Messrs. Hill & Perks, of Norwich, died on Sunday, 12th January, at the age of fifty-five. Mr. Hill, who was the son of the late Mr. Charles Rickards Hill, solicitor, of Norwich, served his articles with Messrs. Keith, Blake & Co. He won Lord Lindley's prize of the Norwich Law Students' Society, and, having passed the Final Examination with honours, he was admitted a solicitor in 1903. In 1905 he entered into partnership with Mr. G. A. C. Perks. Mr. Hill was Vice-President of the Norfolk and Norwich Law Society and a former President of the Norwich and Associated Counties Law Clerks' Association. He was a member of the Norwich City Council in 1908.

MR. R. T. A. HUGHES.

Mr. Rowland Thomas Armstrong Hughes, solicitor, of Bruton, Somerset, died at Malaga, Spain, on Saturday, 11th January, at the age of seventy-three. Mr. Hughes, who was admitted a solicitor in 1889, was a partner in the firm of Messrs. Dyne, Hughes & Archer, of Bruton and Wincanton.

MR. T. W. OAKEY.

Mr. Thomas William Oakey, solicitor, of Nuneaton, died in a nursing home in Birmingham on Monday, 6th January, at the age of seventy-eight. Mr. Oakey, who was admitted a solicitor in 1887, was senior partner in the firm of Messrs. Oakey & Son.

Notes of Cases.

Court of Appeal.

Townley Mill Co. (1919) Ltd. *v.* Oldham Assessment Committee.

Greer, Slesser and Scott, L.JJ. 7th, 8th, 11th and 12th November and 20th December, 1935.

RATING—COTTON MILL CLOSED DOWN—MACHINERY AND PLANT LEFT IN POSITION—MILL RATED AS WAREHOUSE FOR STORING PROCESS MACHINERY—RATING AND VALUATION ACT, 1925 (15 & 16 Geo. 5, c. 90), s. 24 (1).

Appeal from the King's Bench Division (79 SOL. J. 479).

In May, 1931, the company stopped production at a mill belonging to them, and in September, 1931, closed it down. From April, 1932, they were willing to let it, and did let as a warehouse part of the basement containing no plant or machinery. From October, 1932, during the succeeding rating year, the mill was not restarted. By April, 1933, the engineer alone was employed there at a reduced salary to take care of the machinery which remained in position. The mill contained machinery within s. 24 (1) (*a*) of the Rating and Valuation Act, 1925 (motive machinery deemed to be part of the hereditament) and machinery within s. 24 (1) (*b*) (process machinery not so deemed). The Divisional Court held that for rating purposes no account should be taken of the presence of process machinery as being warehoused in the mill. The Assessment Committee appealed.

GREER, L.J., allowing the appeal, said that the company had argued that even apart from s. 24 no value in rating law could be put on the premises as premises where process machinery was warehoused, and that, in any event, the effect of the section was that no account should be taken of this machinery. It was said that the question being what rent a hypothetical tenant would pay for a building containing landlord's fixtures and tenant's fixtures which, not having been removed, must be regarded as part of the hereditament for which rent fell to be estimated, the hypothetical tenant would not pay anything for the free housing of his landlord's property. It was argued that the rateable value could not be estimated on the basis of the mill being regarded as a warehouse for process machinery temporarily fixed to the hereditament, since the tenant would be paying for housing something which was part of the hereditament. But the Committee were right in contending that once it was found that the owner was in occupation, and was receiving benefit from his occupation, he was rateable as beneficial occupier, the extent of his rateability falling to be determined by the fiction of the hypothetical tenant. Here the occupation was beneficial or valuable to the company. Apart from the 1925 Act, it could be taken into account that the company were in beneficial occupation in respect of the preservation of the process machinery, pending sale or lease of the property or removal for sale of the machinery. Section 24 of the Act seemed intended to set at rest the question what machinery should be treated as part of the hereditament and what should not, and to alter for the benefit of industrial ratepayers the law laid down in *Kirby* v. *Hunslet Union Assessment Committee* [1906] A.C. 43. Section 24 (1) (*b*) should not be interpreted as meaning that owners such as this company were not to be deemed to be in beneficial occupation of a factory which they were occupying for the purpose of keeping their plant or machinery in good condition, or as altering the law laid down in *Staley* v. *Castleton Overseers*, 5 B. & S. 505, and *Harter* v. *Salford Overseers*, 6 B. & S. 591.

SLESSER and SCOTT, L.JJ., agreed.

COUNSEL: *Monckton*, K.C., *Eve*, K.C., and *F. Turner*; *W. E. T. Jones*, K.C., *Eastham*, K.C., and *R. Leach*.

SOLICITORS: *Gibson & Weldon*, agents for *Megson & Nicholson*, of Oldham; *Gregory, Rowcliffe & Co.*, agents for *John Taylor & Co.*, of Blackburn.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re **a Debtor (No. 24 of 1935).**

Lord Wright, M.R., Romer and Greene, L.JJ.
17th and 18th December, 1935.

Bankruptcy — Judgment against Firm — Notice Addressed to Firm—Service on One Partner only—Receiving Order—Jurisdiction—Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59), ss. 1, 2.

Appeal from the Chancery Division (79 Sol. J. 903).

In November, 1933, the petitioning creditors recovered judgment for £403 7s. 2d. against a firm of merchants, consisting of two partners, one of whom was the debtor. In April, 1935, a bankruptcy notice addressed to the firm was served on the debtor but not at the address where the firm carried on business. He did not comply with the notice, and in May, 1935, a petition for a receiving order was presented. The Divisional Court held that, though the notice had not been served on the other partner a receiving order could be made against the debtor. The debtor appealed.

Lord Wright, M.R., dismissing the appeal, said that under s. 1 (1) (*g*) of the Bankruptcy Act, 1914, non-compliance with a bankruptcy notice constituted an act of bankruptcy. Though the judgment was against the firm, it was none the less a judgment against the debtor in his several capacity. The notice had been served on the debtor and had not been complied with within seven days. It would seem, therefore, that the matter was complete and in order under s. 1. Section 2 had also been complied with. It had been argued that a receiving order could not be made because the notice had not been served on each debtor individually, but no authority for this proposition had been produced and there was no foundation for it in the terms of the Act. *In re Low* [1895] 1 Q.B. 737, pointed to a directly opposite conclusion and so did *In re Wenham* [1900] 2 Q.B. 698.

Romer and Greene, L.JJ., agreed.

Counsel: *Cloutman; J. B. Blagden.*

Solicitors: *Stanley S. Levene; Aukin & Co.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Peel; Tattersall** *v.* **Peel.**

Eve, J. 10th December, 1935.

Settlement—Marriage—Covenant to Pay Annuity—Application for "Maintenance, Education and Benefit"—No Power to Accumulate.

In 1919, on the occasion of a marriage, the husband's father entered into a deed of covenant with the trustees that if his son should die in his lifetime and there were issue of the marriage, he would pay the trustees the yearly sum of £1,000, to be held in trust for the wife so long as she should remain a widow, and, thereafter, to pay or apply the same for or towards the maintenance, education or benefit of any of the infant children of the marriage as the trustees should think fit, either themselves applying it or paying it to the infant's parent or guardian. There was one child born in 1920. In 1927 the wife obtained a divorce, and in 1929 married again. In 1935 the first husband died. Till then the mother had borne the expense of maintaining the child. The trustees now contended that they had the right to accumulate the whole of the income for the benefit of the infant till he attained twenty-one.

Eve, J., in giving judgment, said that it was not a mere power, but an imperative trust to apply the whole fund for the infant's benefit. There was no power to retain for the purpose of accumulating, and this would amount to a breach of trust. The word "benefit" was meant to settle any doubt whether any particular expenditure came within "maintenance" or "education."

Counsel: *L. Stone; H. Rose; S. Krusin.*

Solicitors: *Rooper & Whateley; Anstey & Co.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

R. *v.* **Leicester Justices:** *Ex parte* **Walker. Myers** *v.* **Walker.**

Lord Hewart, C.J., Humphreys and Singleton, JJ.
31st October, 1935.

Road Traffic—Dangerous Driving—Person charged not Informed of Right to be Tried by Jury—Subsequent Election to be Tried by Justices—Jurisdiction—Obligation on Justices to Order Endorsement of Licence after Conviction—Road Traffic Act, 1930 (20 & 21 Geo. 5, c. 43), s. 11 (1) and (2).

Rule *nisi* for *certiorari* granted to one, Reginald Walker, calling on the Market Bosworth justices sitting at Hinckley to show cause why a conviction of Walker on a charge of dangerous driving should not be quashed on the ground that the justices had no jurisdiction to record it. There was also an appeal, by way of case stated, by the Chief Constable. Walker was charged before the justices under s. 11 (1) of the Road Traffic Act, 1930, with driving a motor-car in a manner dangerous to the public. When the information came up for hearing, Walker was not informed of his right to trial by jury until after the case for the prosecution had been concluded. When informed of his right, Walker elected to be tried by the justices, subject to the objection that the prosecution could not be proceeded with at all. Walker was subsequently convicted, but the justices, contrary to s. 11 (2) of the Act of 1930, did not endorse Walker's licence.

Lord Hewart, C.J., said that it was apparent that the proceedings before the justices had reached the high-water mark of irregularity. It was obvious that the magistrates, in continuing the proceedings, had done something which it had long been clear was unlawful. Walker should have been informed of his right to trial by jury at the outset of the proceedings, and they had been a mere nullity because of the omission of that fundamental matter. The justices had no jurisdiction to deal with Walker, nor could they derive it from anything in the nature of waiver. Further, when the justices had come to a decision on the information, they had apparently considered that the case did not merit any severe punishment, and they had fined Walker £3 without ordering the endorsement of his licence, as was by s. 11 (2) of the Act of 1930 imperative in connection with such a conviction as that which had been recorded. Not content with entering on a case which they had no jurisdiction to try, the justices had proceeded to act in flat contravention of the statute under which the information had been preferred. The appeal must be allowed with costs against the justices themselves. The appeal in the case stated must also be allowed.

Humphreys and Singleton, JJ., agreed.

Counsel: *Laurence Vine*, for the appellant Walker; *R. A. Willes*, for the Chief Constable.

Solicitors: *Robinson & Bradley*, agents for *T. Flavell*, Hinckley; *Kingsford, Dorman & Co.*, for *L. E. Rumsey*, Leicester.

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

R. *v.* **Kent Justices:** *Ex parte* **Commissioner of Metropolitan Police.**

Lord Hewart, C.J., Humphreys and Singleton, JJ.
5th November, 1935.

Criminal Law—Procedure—Plea of Guilty—Subsequent Appeal to Quarter Sessions against Sentence—Non-appearance of Prosecutor—Duty of Justices—Criminal Justice Act, 1925 (15 & 16 Geo. 5, c. 86), s. 25.

Rules *nisi* for *certiorari* and *mandamus* calling on certain Kent justices to show cause why an order, by which they quashed the conviction of a person who was convicted of

larceny at petty sessions, should not be quashed, and directing them to hear and determine that person's appeal against sentence according to law.

A certain person was charged by the manager of an inn with stealing from the inn a lavatory seat valued at 5s. On the 25th March, 1935, he pleaded guilty to the offence at petty sessions and was fined £2. He appealed against sentence only to the West Kent Quarter Sessions. When the appeal was called on, on the 22nd May, 1935, counsel stated that he appeared to oppose the appeal on behalf of the Commissioner of Metropolitan Police. It was thereupon objected for the appellant that, as neither the Commissioner nor any police officer had been a party to the proceedings in the court below, the Commissioner was not now entitled to be heard. It was urged that only the manager of the inn (who was not present) was entitled to be heard. Quarter Sessions accepted that view and, in view of the absence of the manager, quashed the conviction.

LORD HEWART, C.J., said that the justices, having come to the conclusion that the Commissioner was not entitled to be heard, had, instead of calling on the chief witness to depose to the facts, or, if they thought fit, and as they were invited to do, adjourning the appeal to a later date, decided to deal with the matter in the absence of counsel for the respondent. Their attention having been directed to *Reg.* v. *Surrey Justices* [1892] 2 Q.B. 719, and clearly believing that they were acting on the authority of that case, they accepted the appellant's contention that he was entitled not only to have his appeal allowed and the sentence struck out, but also to have the conviction quashed. No warrant could be found, on looking at *Reg.* v. *Surrey Justices* and its date, for the course taken by the justices. In that case there had been no plea of guilty and the appeal had been one against a summary conviction on the sole ground that the punishment inflicted was excessive. Much had happened since then. By s. 25 of the Criminal Justice Act, 1925, a right was given to appeal against sentence even though the appellant had pleaded guilty in the court below. In his (his lordship's) opinion, since the passing of the Act of 1925, *Reg.* v. *Surrey Justices* (*supra*) threw no light on the duty of the Court of Quarter Sessions in such a case. They were only entitled to deal with the question of sentence. As to whether the Commissioner of Metropolitan Police was, in the circumstances, entitled to appear as a party to the appeal, he (his lordship) preferred to express no final opinion. The matter might hereafter call for very careful consideration. The justices might, it was clear, have instructed counsel. It was perhaps true that the justices had in effect instructed counsel by inviting the police to take the matter up. Counsel did not take the course, which he might conceivably have taken, of arguing that he was really appearing for the justices. On the contrary, he had said he was appearing only for the Commissioner. He (his lordship) had no doubt that the justices were wrong in concluding that the only course open to them was to deal with the appeal in the absence of evidence. Even if they had been right in thus hearing the appeal against sentence, they had no jurisdiction to quash the conviction. Accordingly, as it clearly appeared that the justices had never directed their minds to the real and only point before them, namely the *quantum* of the sentence, both rules must be made absolute and they must hear and determine the appeal according to law.

HUMPHREYS and SINGLETON, JJ., agreed.

COUNSEL: *Vernon Gattie* and *B. H. Waddy*, showing cause on behalf of the justices; *G. B. McClure* and *Frank Powell*, in support of the rules.

SOLICITORS: *Sharpe, Pritchard & Co.*, agents for *W. L. Platts*, Maidstone; *Solicitor for the Metropolitan Police.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law]

The next General Quarter Sessions of the Peace for the Borough of Stamford will be held in the Town Hall, Stamford, on 29th January, at 11.30 in the forenoon.

Drages Ltd. *v.* Owen and Another.

Porter, J. 7th November, 1935.

HIRE-PURCHASE—INSTALMENT IN ARREAR—WRITTEN NOTICE TERMINATING AGREEMENT SENT BY VENDOR—MOMENT WHEN NOTICE BECOMES OPERATIVE.

The plaintiffs were the owners of certain furniture which they had let to one, Narcisso, under a hire-purchase agreement of the 9th February, 1934. On the 25th June, 1935, the hire-rent of the furniture was more than seven days in arrear. Accordingly, acting under a provision in the agreement, the plaintiffs on the 25th June wrote a letter and sent it by registered post to Narcisso, terminating the hire-purchase agreement. That letter was delivered to Narcisso at his address at 8.20 a.m. on the 26th June. On that day Narcisso was in arrears with his house rent to the extent of £3 19s. The first defendant, Owen, instructed the second defendant, a certificated bailiff, to levy distress. The distress was levied at 8.5 a.m. on the 26th June and furniture was taken which was comprised in the hire-purchase agreement between the plaintiffs and Narcisso. By s. 4 (1) of the Law of Distress Amendment Act, 1908, the protection from distress given to the goods of third parties does not apply to goods comprised in a hire-purchase agreement or in the possession of the tenant by permission of the owner in such circumstances that he is the reputed owner of the goods. The plaintiffs brought an action claiming the return of the furniture and damages for its detention, and the question was whether the plaintiffs' notice operated to determine the hire-purchase agreement at the time of its being posted or at that of its delivery. In the former case, the agreement being terminated at the time of the distress, the furniture would have been protected and the plaintiffs entitled to succeed.

PORTER, J., said that the word "thereupon" in the clause of the hire-purchase agreement, which entitled the plaintiffs to terminate it, meant "upon the written notice being sent by post." It was "thereupon" that the hirer was no longer in possession of the goods with the owners' consent. The question was from what time those words spoke. The defendants contended that the time to be considered was that when the notice either reached, or ought to have reached, its destination. It would, however, have been difficult to say at what moment the letter was likely to reach the addressee. He (his lordship) could not go outside the words themselves, which were "sent by post," and he construed them as meaning that at the moment when the letter was posted the whole agreement came to an end. The defendants had relied on *Browne* v. *Black* [1912] 1 K.B. 316, in which it had been held that a solicitor's bill had not been "sent by the post" within the meaning of s. 37 of the Solicitors Act, 1843, until such time had elapsed as would in the ordinary course of post permit it to be delivered to the addressee. But that decision had been given in the light of the special circumstances of that case, which were different from those of the present. In that case the recipients were entitled to receive a notice in order that they might have time to do a particular act. In the present case the object of the notice was to enable the plaintiffs to protect themselves, and there was therefore no reason why it should speak from the moment of its receipt. The plaintiffs were accordingly entitled to succeed.

COUNSEL: *H. L. Parker*, for the plaintiffs; *J. P. Eddy*, for the defendants.

SOLICITORS: *Tredgolds & Idris; R. H. King & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

The Press Association announces that it has received the following communication: "Lord Peel's attention has been drawn to statements in the Press with reference to the report of the Royal Commission on Common Law Business, of which he is chairman. He desires to say that it would obviously be improper for him to comment on the speculative anticipations of a report which will shortly be presented to the authorities concerned."

Fredman *v.* Minister of Health.

Swift, J. 16th December, 1935.

Housing—Clearance Order—Whether Local Authority under Obligation to hear Opposition to Order—Housing Act, 1930 (20 & 21 Geo. 5, c. 39).

Appeal under the Housing Act, 1930.

On the 5th March, 1934, the Plymouth City Council by resolution made an order under Pt. I of the Housing Act, 1930, declaring to be a clearance area an area within their jurisdiction which included houses belonging to the applicant, Fredman. As soon as he received notice of the order, the applicant inspected the property and gave instructions for repairs and improvements to be put in hand which were duly carried out. On the 23rd March he gave notice of objection to confirmation of the order by the Minister, and on the 24th April a public local enquiry was held by an inspector of the Ministry of Health. At the enquiry it was stated on behalf of the council that the applicant's property had been included in the order because the houses were dangerous or injurious to the health of the inhabitants owing to bad arrangement, and that they were unfit for human habitation by reason of disrepair and sanitary defects. The applicant maintained that the works carried out by him had remedied these faults. The order having been confirmed, the applicant appealed, and he contended that he should have been heard by the city council in opposition to their proposed clearance order under s. 1 (1) of the Act, and that, because that had not been done, the order as confirmed by the Minister was not within the powers conferred by the Act, and that the requirements of the Act had not been complied with.

Swift, J., said that it was a well-known principle of common law, which had been clearly stated by Willes, J., in *Cooper* v. *The Wandsworth Board of Works* (1863), 14 C.B. (N.S.) 180, at p. 190, that a tribunal invested with power to affect the property of one of His Majesty's subjects is bound to give that subject an opportunity of being heard before it proceeds. There could be no doubt that that broad principle was incorporated in the Act. The Minister, in confirming orders, was clearly obliged to act in accordance with the dictates of natural justice. It had, however, been suggested that the principle must be applied by a local authority before they made their clearance order. He (his lordship) did not agree with that. A local authority did not by making a clearance order themselves order the property in the area to be pulled down. They did not affect the property in any way except that, by passing their resolution, they might be bringing it one step nearer to ultimate demolition and thereby be depreciating its value. The local authority were not empowered to hold any enquiry before making the clearance order. The owner of the property affected might make his objections to the Minister. In his (his lordship's) opinion, the legislature had not intended to provide in the scheme of the Act for a local authority to entertain any objections before making a clearance order. The appeal must accordingly be dismissed

Counsel: *H. A. Hill*, for the applicant; *The Solicitor-General* (Sir Donald Somervell, K.C.) and *R. C. Essenhigh*, for the Minister.

Solicitors: *Barnes & Butler; The Solicitor to the Ministry of Health.*

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

An illuminated book of remembrance signed by the Lord Mayor of Birmingham, the chairman and the past and present members of the Birmingham Assessment Committee, was recently presented to Sir James Curtis, K.B.E., D.L., J.P., on his retirement from the office of Clerk to the Assessment Committee. Sir James Curtis, who was admitted a solicitor in 1906, has completed fifty years' local government service in Birmingham.

Probate, Divorce and Admiralty Division.

In the Estate of James Finn, deceased.

Langton, J. 5th December, 1935.

Probate—Will—Thumbmark in Place of Signature—Wills Act, 1837 (7 Will. 4, and 1 Vict., c. 26), s. 9.

This was a motion on behalf of the executor, a brother of the deceased, for a grant of probate of the will of James Finn, of Bedford-road, Walton, Liverpool, who died on 5th July, 1935, leaving estate of approximately £680. The matter had been referred to the court because the testator, unable to write, had made his mark by pressing an ink-smeared thumb on his will. One of the attesting witnesses, a clergyman, stated in his affidavit that at the end of April last the testator asked him to draft his will. He (the witness) bought a will form, and on 1st May wrote out the testator's dictated wishes. He read it over to the testator, who seemed thoroughly to understand it. As the testator was unable to write he (the witness) smeared ink on the testator's thumb and the testator pressed his thumb on the will at the foot or the end of it. The mark was duly attested. Counsel for the applicant said that the clergyman in question had been for many years a chaplain in India, where it was the custom on the North-west Frontier for illiterate natives to execute documents by making a thumb impression. It was well established that the purposes of s. 9 of the Wills Act, 1837, as to signing a will, could be effected by the testator making his mark. Although there was no reported case of a thumb-mark being used for this purpose, it had just as much virtue as a signature as a cross or rubber stamp, and both of those had been allowed. The type of mark did not matter so long as the testator's intention was clear.

Langton, J. I see no possibility of identifying this mark as a thumb impression.

Counsel: The testator's thumb slipped and the mark was smudged. The court was not being asked to find generally that a thumb-mark was a means of due execution, apart from the special circumstances of the present case. In *In the Goods of Bryce* (1839), 2 Curt 325—a case heard about two years after the Wills Act, 1837, was passed—it was held that it was unnecessary to place the name of the testator against his mark. Counsel on behalf of minors, whose interests were concerned, offered no opposition to the proposed grant.

Langton, J., in giving judgment, said that one hundred years ago illiterates were much more common than nowadays, but if a mark were the only way a testator had of making a signature, it came within the meaning of the statute. The thumb mark in the present case was no worse than a cross, but the method adopted did not commend itself. However, in the circumstances, a grant would be made.

Counsel: *H. B. D. Grazebrook* for the applicant; *J. E. L. Russell* for the minor interests.

Solicitors: *Fortescue, Adshead & Guest*, for *J. W. Wall and Co.*, Bootle.

[Reported by J. F. Compton-Miller, Esq., Barrister-at-Law.]

Papadopoulos *v.* Papadopoulos.

Sir Boyd Merriman, P. 19th December, 1935.

Judicial Separation—Wife's Petition on Ground of Desertion—Invalidity of Agreement to Separate—Continuing Desertion — Decree — Direction to Registrar in the Event of Presentation of Petition for Alimony.

This was a wife's petition for judicial separation on the ground of desertion. The spouses had been living apart for upwards of twenty years, and there was a subsisting magistrate's order for maintenance made in 1929. The question arose as to whether an agreement between the parties in 1914, that they should separate, barred the petitioner's claim.

The parties were married at a register office in London in 1912. The husband, a Cypriot domiciled in Cyprus, was then studying medicine in England. The wife was a Frenchwoman. In 1913 the husband, having obtained his diplomas, returned to Cyprus, and in the following year the wife took proceedings in the District Court of Nicosia, for a declaration that their marriage was valid, and for maintenance. The proceedings were compromised and on the 19th May, 1914, by consent, the court decreed that the marriage was void, as having been contrary to the law of the domicil regarding essential conditions of marriage (the husband being a member of the Greek Orthodox Church), and that the husband should pay the petitioner the sum of £380 in full settlement of her claim. That money was paid and the parties lived apart. The respondent re-married, and there was issue of the second union. In 1929 the respondent was practising in London and the petitioner (who had been living in France) obtained a maintenance order of £2 per week at Bow-street Police Court. The respondent appealed on the ground there had been no marriage. The Divisional Court found (1930, P. 55; 73 SOL. J. 797) that the Cypriot Court had no jurisdiction to annul the marriage, and that the agreement to set it aside was unlawful. In answer to the present petition the respondent pleaded the agreement entered into in May, 1914, in pursuance of which the parties had lived separate and apart. By her reply, the petitioner pleaded that the agreement had been pronounced null and void by the Divisional Court. Counsel, on behalf of the respondent, submitted that although the agreement embodied in the Cypriot decree had been declared void, there was nevertheless an actual agreement between the parties to separate for a consideration, that it had been acted upon until 1929, and that, therefore, desertion must be negatived on the principle laid down by Lord Penzance in *Fitzgerald* v. *Fitzgerald* (1869), L.R 1, P & D. 694, 698.

SIR BOYD MERRIMAN, P., in giving judgment, said that when the District Court of Nicosia made its order the statutory period of desertion for two years had not been reached. Both spouses believed that the proceedings were valid, and in 1914 parted as the result of an agreement. But it had been decided by the Divisional Court that the agreement was illegal and immoral, and could not be set up by either party in an English court. It was not until 1934, when the husband, having returned to Cyprus after the Divisional Court proceedings, came back to England, that the wife was in a position to commence proceedings for judicial separation. After considering the authorities he (his lordship) had come to the conclusion that, taking the period from 1913 to the date of the present petition as a whole, the husband had deserted the wife without just cause for upwards of two years. There would therefore be a decree of judicial separation, but with a proviso that, in the event of a petition for alimony being presented, the registrar should take into account the whole of the circumstances.

COUNSEL: *Maurice Healy*, K.C., and *Julian Fuller*, for the petitioner; *Noel Middleton* for the respondent.

SOLICITORS: *Barry O'Brien & Co.; Kenneth Brown, Baker, Baker.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Carr, otherwise Fowler *v.* Carr.

Bucknill, J. 13th January, 1936.

NULLITY—NON-AGE—PARTY UNDER SIXTEEN—MARRIAGE VOID—AGE OF MARRIAGE ACT, 1929 (19 & 20 Geo. 5, c. 36), s. 1 (1).

This was a petition by Margery Graines Carr for a declaration that her marriage to Hubert Alfred Carr, which took place on 27th September, 1930, at St. Paul's Church, Chingford, Essex, was null and void, owing to the fact that at the time the petitioner was under the age of sixteen years. The respondent did not defend the suit. Counsel on behalf of the petitioner in his submission reviewed the history of the law leading up to the passing of the Age of Marriage Act, 1929.

BUCKNILL, J., in giving judgment said that in the marriage register the petitioner's age was given as seventeen years. She said that she had done that because it seemed foolish to give her own age, which was only fifteen years and eleven months. She said that she did not tell the man whom she was marrying that she was only fifteen, and led him to suppose she was seventeen. There would be a declaration that, by reason of s. 1 (1) of the Age of Marriage Act, 1929, invalidating any marriage celebrated between persons either of whom was under the age of sixteen, the marriage was null and void.

COUNSEL: *Maurice Lush.*

SOLICITORS: *Breeze, Wyles & Raggett.*

[Reported by J. F. COMPTON-MILLER. Esq., Barrister-at-Law.]

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Societies.

The Law Society.

HONOURS EXAMINATION.

NOVEMBER, 1935.

SPECIAL PRIZES OPEN TO CANDIDATES AT THE HONOURS EXAMINATIONS IN THE YEAR 1935; AND THE CITY OF LONDON SOLICITORS' COMPANY'S PRIZES.

THE SCOTT SCHOLARSHIP.

John Frank Gregg, LL.M. Birmingham (served articles with Mr. Samuel John Grey, of the firm of Messrs. S. J. Grey and Willcox, of Birmingham). Mr. Gregg was awarded the Clement's Inn Prize in June, 1935.

THE BRODERIP PRIZE FOR REAL PROPERTY AND CONVEYANCING.

George Coles Barber, LL.B. Leeds (served articles with Mr. Francis Mariner Horner, of the firm of Messrs. Sampson, Horner & Co., of Bradford). Mr. Barber was awarded the Daniel Reardon Prize in June, 1935.

THE CLABON PRIZE.

Philip Stephen Burnett, B.A. London (served articles with Mr. Arthur Kitching, of Pickering). Mr. Burnett was awarded the Clement's Inn Prize in November, 1935.

THE MAURICE NORDON PRIZE.

John Frank Gregg, LL.M. Birmingham (served articles as before-stated).

LOCAL PRIZES.

THE TIMPRON MARTIN PRIZE FOR LIVERPOOL STUDENTS.

Theodore Joseph Christopher von Sobbe Taylor, LL.B. Liverpool (served articles with Mr. William Ernest Taylor, of the firm of Messrs. Banks, Kendall, Taylor & Gorst, of Liverpool). Mr. Taylor was awarded the Daniel Reardon Prize in November, 1935.

THE ATKINSON CONVEYANCING PRIZE FOR LIVERPOOL OR PRESTON STUDENTS.

Theodore Joseph Christopher von Sobbe Taylor, LL.B. Liverpool (served articles as before-stated).

THE RUPERT BREMNER MEDAL FOR LIVERPOOL STUDENTS.

Theodore Joseph Christopher von Sobbe Taylor, LL.B. Liverpool (served articles as before-stated).

THE BIRMINGHAM LAW SOCIETY'S GOLD MEDAL.

John Frank Gregg, LL.M. Birmingham (served articles as before-stated).

(The award of this medal carries with it the Horton Prize.)

THE BIRMINGHAM LAW SOCIETY'S BRONZE MEDAL.

Thomas Dornan, B.A., B.C.L. Oxon (served articles with Mr. Charles Earnshaw Woosnam, of the firm of Messrs. Cottrell & Son, of Birmingham). Mr. Dornan was awarded the Clifford's Inn Prize in June, 1935.

THE STEPHEN HEELIS PRIZE FOR MANCHESTER AND SALFORD STUDENTS.

Ernest Lawrence Thackray, LL.B. Manchester (served articles with Mr. Henry Cardwell, M.A., LL.B., of the firm of Messrs. Tatham, Worthington & Co., of Manchester). Mr. Thackray was awarded Second Class Honours in November, 1935.

THE NEWCASTLE-UPON-TYNE PRIZE.

George Soulsby (served articles with Mr. John William Cuthberton, of Blyth). Mr. Soulsby was awarded Third Class Honours in March, 1935.

THE WAKEFIELD AND BRADFORD PRIZE.

Geoffrey Thornton Calvert, B.A. Oxon (served articles with Mr. Harold Frederic Atter, O.B.E., of the firm of Messrs. Greaves, Atter & Beaumont, of Wakefield). Mr. Calvert was awarded Third Class Honours in June, 1935.

THE SIR GEORGE FOWLER PRIZE.

Rolla Douglas Watts Edwardes-Ker (served articles with Mr. Harold Gaye Michelmore, of the firm of Messrs. Harold Michelmore & Co., of Newton Abbot). Mr. Edwardes-Ker was awarded First Class Honours in June, 1935.

THE MELLERSH PRIZE.

Michael Percy George Bowman (served articles with Mr. William Triggs Stevenson Turner and Miss Winifred Lewis, both of the firm of Messrs. Triggs Turner & Co., of Guildford). Mr. Bowman was awarded Third Class Honours in March, 1935.

THE CITY OF LONDON SOLICITORS' COMPANY'S PRIZE.

William Michael Baker (served articles with Mr. Bernard Richard Everett, Mr. Edgar Charles Chancellor and Mr. Albert Fletcher, all of the firm of Messrs. Stoneham & Sons, of No. 108A, Cannon-street, London). Mr. Baker passed the Final Examination in November, 1935.

THE CITY OF LONDON SOLICITORS' COMPANY GROTIUS PRIZE.

Andrew Bernard Lyons, B.A., LL.B. Cantab. and Richard Lancelot Robinson, LL.B. London (served articles with Mr. Aubrey Gonvi O'Hara Russ, of the firm of Messrs. C. A. Russ & Son, of No. 32, St. Mary Axe, London, and was awarded Second Class Honours in June, 1935; Mr. Robinson served articles with Mr. Frederick Appleby Holt, O.B.E., B.A., LL.B., of the firm of Messrs. Birkbeck, Julius, Edwards & Co., of No. 49, Moorgate, London, and was awarded Second Class Honours in November, 1935).

Referees' (Landlord and Tenant Act 1927) Association.

The third annual banquet of this Association was held at the National Liberal Club on the 9th January. Mr. S. P. J. MERLIN took the chair, and after the loyal toast Mr. J. G. HEAD proposed the health of the Bench. One of the foremost qualities of the English language, he said, was its elasticity, which some people were more inclined to call ambiguity. Lay Referees, on first reading the Act, thought that it presented a fairly intelligible and obvious meaning, but when they came into contact with the more agile mind of the legal Referee they began to discover that there were other and quite different meanings. This impression was increased when they came into court and found that at least one, and possibly more, of the counsel engaged were putting forward these alternative meanings. The Referee's duty was like that of the suitor in the old play: to choose which of three caskets held the portrait of the beautiful lady. The judge, with his knowledge of feminine nature, assisted the Referee to find the portrait and, what was more, presented him with the lady's address for the future. The judge undertook the responsibility of determining the meaning of those words in the Act which the Referees themselves were not quite able to define, and for these and other services they were profoundly indebted to the Bench.

Judge OWEN THOMPSON, in reply, supposed that the Association's object was really to make the Act a success, and enumerated a number of ways in which it fulfilled that object. Referees brought trained minds to bear on the practical questions which were submitted to them, and this, in a panel, was an extremely desirable thing. They were not, like lay magistrates, in the hands of an official, but decided questions for themselves, and gave the judges grounds for trusting them to deal with questions impartially and sensibly from their knowledge of life and circumstances. Moreover, they dealt with their cases from a commonsense point of view; and, thanks to the link which the Association provided, all the Referees up and down the country worked on the same lines, and achieved uniformity in interpretation and practice. Lastly, the one thing which could make a body, an association or a corporation go was a good honorary secretary, and in Mr. Horton-Smith the Association possessed one of the most vital factors for success. He asked the Referees to trust the judges not to criticise lightly or wantonly the reports they sent up. The judges knew what had gone to making those reports and how the Referees dealt with experts. If one expert said that the goodwill was worth £1,000 and the other expert said that it was worth £10, the Referee did not add the two figures and divide by two to produce a sum of £505, but would award £549 10s. This impressed the judge: he thought that the Referee must have put his back into it, and found it very difficult to upset such an award. Judge KONSTAM also replied.

The toast of "The Other Guests" was proposed by Mr. J. A. K. FERNS, who said that all the efforts of the Referees had been repaid by the kind words they had heard from Judge Owen Thompson, complimenting them on their uniformity. In reply, Mr. H. C. WEBSTER testified to the help the Association gave him in teaching him how to conduct his cases.

Mr. REGISTRAR FRIEND also replied, and said that his only official connection with the Act was that a couple of solicitors' clerks would appear in chambers and, when he asked them what they wanted, would say that they had come to settle Mr. Head's charges. They would then go away, and that was the Act. Questions under the Act were among the more pleasant work of the county court judge, for the considerateness and courtesy of those who were connected with it relieved it of the sordid pettiness which disfigured much of the other work of the county court judge.

Mr. J. W. J. CREMLYN, proposing the health of the Association, commented on the difficulty which Parliament found in making sense out of its own Acts. He mentioned a certain statute of George III, for a breach of which the penalty was to be equally divided between the King and the poor of the parish. The penalty, rather surprisingly, was fourteen years' transportation. Parliament had originally intended to make it £5, but on second thoughts had altered it to fourteen years, and had forgotten to make the consequential amendment. Another Act of 1808 had laid down that the profits were to be equally divided, and the residue was to be handed over to the Government. This, by the way, was the method which Mr. Horton-Smith had adopted for the various books which he had published upon the 1927 Act. Until the passing of the 1927 Act all profit and goodwill had gone to the landlord. The Act brought a fairer division of the spoil. It had exemplified the duties of government in an admirable way. There was a great gulf fixed between the control and the ownership of wealth by Parliament.

The CHAIRMAN referred the gathering to Mr. L. G. H. HORTON-SMITH for a reply, and the Association's Honorary Secretary acknowledged a debt, not only to his fellow Referees, but to the legal press and other organs—notably the "Grocers' Gazette," which had published a pamphlet entitled "Your Charter—Wake Up!" Some Referees had tried to explain what goodwill was. They should be very careful what they wrote: the judges might follow them. The Act was full of glaring deficiencies and this circumstance justified them in their determination to strip it naked. It was for the Referees to accept the Act and act upon it.

The health of the Chairman was proposed by Mr. ARTHUR H. FORBES, and the Chairman replied.

The Derby Law Society.

The fiftieth annual meeting of the Derby Law Society was held on 11th December, 1935, when the following officers were elected for the ensuing year: President, Mr. P. B. Mather, of Chesterfield; Vice-President, Col. W. R. H. Whiston, of Derby; Hon. Treasurer, Mr. Bendle W. Moore, of Derby; Hon. Secretary, Mr. A. J. Robotham, of Derby.

Solicitors' Benevolent Association.

The monthly meeting of the Directors was held at The Law Society's Hall, Chancery Lane, London, W.C.2, on the 8th January, Mr. C. S. Bigg (Leicester) in the chair. The other Directors present were Sir A. Norman Hill, Bart., Sir E. F. Knapp-Fisher, Sir Edmund Cook, C.B.E., Messrs. E. E. Bird, G. S. Blaker (Henley), P. D. Botterell, C.B.E., A. J. Cash

(Derby), N. T. Crombie (York), T. S. Curtis, E. F. Dent, A. G. Gibson, G. Keith, C. W. Lee, J.P., C. G. May, R. C. Nesbitt, H. F. Plant, M.C., F. S. Stancliffe (Manchester), A. B. Urmston (Maidstone), and the Secretary. £807 10s. was distributed in grants to necessitous cases; twenty-seven new members were elected; other general business was transacted.

University of London Law Society.

The University of London Law Society held its weekly meeting on Tuesday, 14th January, at Gower Street. Mr. Herbert Betuel, LL.B., Barrister-at-Law, presided. The subject for debate was: "Cæsarism is and always has been the curse of the world." Proposers, Mr. R. Potchokhoff and Mr. D. Saeker; opposers, Mr. N. P. Motnahan and Mr. D. E. Bilimoria. The following also spoke: Messrs. Stranders, Garner, Rogers, Puri, Kraft, Grunstan, Gill and Powell. The motion was lost by eight votes to six.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 14th January (Chairman, Mr. E. V. E. White), the subject for debate was: "That the case of *In re Gilbert & Foster's Contract*, 52 T.L.R. 4, was wrongly decided." Mr. G. R. Hardy opened in the affirmative; Mr. G. G. Jeudwine opened in the negative. Mr. S. Samson seconded in the affirmative; Mr. P. D. Warren seconded in the negative. The following members also spoke: Messrs. R. Landman, J. Montgomerie, S. C. Baron, Q. B. Hurst, J. D. Wight and E. Garber. The opener having replied, and the Chairman having summed up, the motion was lost by two votes. There were nineteen members and four visitors present.

United Law Society.

A meeting of the United Law Society was held in the Middle Temple Common Room on Monday, the 13th January, at 7.45 p.m. Mr. R. E. Ball proposed the motion: "That the distinction between felony and misdemeanour is an anachronism and should be abolished." Mr. S. E. Redfern opposed. Miss Colwill, Messrs. Burke, Butcher, Everett, Hill, McQuown, Pritchard, S. A. Redfern and Walton also spoke. After Mr. Ball had replied, the motion was put to the House and carried by five votes. There were eighteen members and three visitors present.

Annual Dinner.

The Hon. Mr. Justice Hilbery presided at the annual dinner of the United Law Society, held at the Café Royal on 16th December, 1935. The Society's guests included: Lady Hilbery, His Honour Judge Dodson, the President of The Law Society, Mr. J. H. Thorpe, K.C., Mr. Theobald Mathew, Mr. Simon Elwes, Mr. A. P. Herbert, M.P., and Mrs. Herbert. The following officers of the Society were also present: Mr. R. W. Bell (chairman), Mr. H. Everett (vice-chairman), Mr. F. Howard Butcher (treasurer), Mr. R. E. Ball and Mr. J. H. Vine Hall (secretaries), Mr. R. J. Kent (reporter), Mr. T. A. Harrison (organiser of the poor man's lawyer), Mr. S. E. Redfern and Mr. G. B. Burke (trustees), and Mr. F. W. Yates and Mr. W. Wentworth Pritchard (auditors).

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve the appointment of Mr. Frederick William Gentle, Barrister-at-Law, as a Puisne Judge of the High Court of Judicature at Madras in the vacancy created by the appointment of Mr. Justice Stone as Chief Justice of the High Court of Nagpur.

The Lord Chancellor has appointed Master Alfred Herbert Holland to be Chief Master in the Chancery Division of the Supreme Court of Judicature, in succession to Sir Joseph Chitty, who has retired.

The Lord Chancellor has also appointed Mr. Trevor Clyde Newman to be a Master in the Chancery Division of the Supreme Court of Judicature, to fill the vacancy amongst the Masters caused by Sir Joseph Chitty's retirement.

Mr. Charles Ernest Rowland Abbott has been elected a Bencher of Lincoln's Inn in place of the late Lord Tomlin; Mr. Lucius Widdrington Byrne in the place of the late Lord Wrenbury; and Mr. John Bennett in the place of the late Mr. Herbert Sansome Preston, K.C.

Mr. J. Bowen Davies, K.C., Stipendiary Magistrate at Aberdare, has been elected Vice-Chairman of Carmarthen Quarter Sessions. Mr. Davies was called to the Bar by the Middle Temple in 1898.

Miss B. Batlivala, Barrister-at-Law, of the Inner Temple, has been appointed by the Maharajah Gaekwar to the Baroda State service as personal assistant to the Educational Commissioner. Miss Batlivala was called to the Bar by the Inner Temple in 1932.

Mr. G. E. Malley, Assistant Solicitor, Wakefield Corporation, has been recommended for appointment as Deputy Town Clerk of Bootle. Mr. Malley was admitted a solicitor in 1933.

Professional Announcements.

(2s. per line.)

Solicitors & General Mortgage & Estate Agents Association.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

Notes.

Mr. D. E. Richards, the Town Clerk of Finsbury, is to retire on 1st July next.

The Right Hon. The Lord Cottesloe, C.B., has been appointed Chairman of the Guarantee Society Limited.

Sir Ian Macpherson, who was created a peer in the New Year's Honours List, will take the title of Lord Strathcarron of Banchor.

Sir Samuel Brighouse, of Ormskirk, the well-known Lancashire coroner, completed fifty-two years of office last Thursday. He is eighty-six, and has conducted over 22,000 inquests.

The net new life assurance business completed by the Alliance Assurance Company Limited for the year 1935 amounted to approximately £3,580,000, as compared with £3,589,939 during 1934.

Three jurymen in a panel of twelve at the Caernarvonshire Quarter Sessions stated that they could neither read nor understand English. They were not sworn, but were told to remain in court until the end of the sessions.

According to the Annual Statistical Report issued by Messrs. Jordan & Sons, Limited, Company Registration Agents, of Chancery Lane, London, there were 13,103 new companies registered during 1935, with a total capital of £136,634,110.

The annual general meeting of the Bar Golfing Society will be held at Lincoln's Inn Hall on 5th February, at 4.30 p.m. The annual tournament of the Society will be held over the links of the Royal St. George's Club at Sandwich from 3rd June to 6th June.

Mr. R. S. Butcher, solicitor, who has been Clerk of Walsingham Rural District for thirty-nine years, has tendered his resignation. Mr. Butcher was admitted a solicitor in 1888, and is a partner in the firm of Messrs. Butcher & Andrews, of Fakenham, Norfolk.

The Centenary Dinner of the Union Society of London will be held at the Savoy Hotel, on Tuesday, 25th February, at 7.15 o'clock. The guests of the Society will include Lord Lloyd, Lord Macmillan, Sir Frank Boyd Merriman, The Hon. Harold Nicolson, M.P., and Sir Patrick Hastings, K.C.

Messrs. Hampton & Sons, Auctioneers and Surveyors, announce that having outgrown their home at 20, St. James's-square, they have acquired larger and more modern premises at 6, Arlington-street (opposite the Ritz Hotel), Piccadilly. The transfer to the new address will be carried out at the earliest possible moment.

Over 250 applications have been received at Guildhall for the vacant office of City Marshal. A sub-committee of the Officers' and Clerks' Committee will select twenty candidates, who will be interviewed. The full committee will reduce this number to five, and take the names up to the Common Council for the election of a successor to Captain Derek Massy.

Sir Godfrey Collins, Secretary of State for Scotland, has appointed Dr. James R. Adam, Medical Officer of Health for the County of Roxburgh, to the Scottish Housing Advisory Committee set up under the Housing (Scotland) Act, 1935, to advise the Department of Health for Scotland on matters arising in connection with the execution of the Housing (Scotland) Acts.

Messrs. Weatherall, Green & Smith, auctioneers, surveyors and valuers, of 22, Chancery-lane, London, announce that as from the 31st December last, Mr. Charles W. Willoughby retired from the firm, and Mr. Charles Albert Willoughby, P.A.S.I., F.A.I., his son, who has been the principal assistant to the firm for a number of years, has been taken into partnership from the same date.

The fourth lecture of the present session of the South Wales and Monmouthshire Students' Society of the Incorporated Association of Rating and Valuation Officers was delivered at the City Hall by Mr. C. James Hardwicke, Solicitor, of Cardiff, his subject being "Court Procedure." Towards the close of his talk the lecturer touched upon the operation of the Money Payments (Justices' Procedure) Act, 1935, which came into force on the 1st January, and after outlining some of its provisions, mentioned the fact that it is possible that the legislature might find it expedient to curtail the Act in certain directions.

The Directors of the Midland Bank, Ltd., report that, full provision having been made for all bad and doubtful debts, the net profits for the year 1935 amount to £2,353,098, which, with £871,946 brought forward, makes £3,225,044. Appropriations amounting to £1,653,376 have been made, leaving a sum of £1,571,668, from which the Directors recommend (*a*) a dividend, payable 1st February next, for the half-year ended 31st December, 1935, at the rate of 16 per cent. per annum less income tax; (*b*) a centenary bonus, payable with the dividend on 1st February next, at the rate of 2 per cent. on the paid-up capital of the Company less income tax; and a balance to be carried forward of £467,447.

BAR COUNCIL ELECTION, 1936.

The annual Election of Members to fill the vacancies upon the Council will be held in the week ending the 15th February, 1936. Twenty-four candidates have to be elected, of whom one at least must be of the Inner Bar, eleven at least must be of the Outer Bar, and of these, three at least must be of less than ten years standing at the Bar. Candidates for election must be proposed in writing, and the proposal form, signed by at least ten barristers, must be sent to the Secretary at the Offices of the Council, 5, Stone-buildings, Lincoln's Inn, on or before Friday, the 24th January, 1936. Proposal forms may be obtained from the Secretary. Every barrister is entitled to vote at the election. Voting papers with instructions to voters will be sent on or about the 7th February to every barrister whose address is given in the 1935 Law List. A barrister who has not an address in the 1935 Law List may obtain a voting paper upon his personal or written application.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT I.	GROUP I. MR. JUSTICE EVE. Witness Part II.	MR. JUSITCE BENNETT. Non-Witness
	Mr.	Mr.	Mr.	Mr.
Jan. 20	Jones	More	More	Andrews
,, 21	Ritchie	Hicks Beach	*Ritchie	More
,, 22	Blaker	Andrews	Andrews	Ritchie
,, 23	More	Jones	*More	Andrews
,, 24	Hicks Beach	Ritchie	Ritchie	More
,, 25	Andrews	Blaker	Andrews	Ritchie

	GROUP I. MR. JUSTICE CROSSMAN. Witness. Part I.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
	Mr.	Mr.	Mr.	Mr.
Jan. 20	*Ritchie	*Hicks Beach	Blaker	*Jones
,, 21	*Andrews	*Blaker	Jones	Hicks Beach
,, 22	*More	*Jones	Hicks Beach	*Blaker
,, 23	Ritchie	*Hicks Beach	Blaker	Jones
,, 24	*Andrews	Blaker	Jones	*Hicks Beach
,, 25	More	Jones	Hicks Beach	Blaker

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

A UNIVERSAL APPEAL

TO LAWYERS: FOR A POSTCARD OR A GUINEA FOR A MODEL FORM OF BEQUEST TO THE HOSPITAL FOR EPILEPSY AND PARALYSIS, MAIDA VALE, W.9.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 23rd January, 1936.

	Div. Months.	Middle Price 15 Jan. 1936.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	114½	3 9 10	3 1 1
Consols 2½%	JAJO	86½	2 17 10	—
War Loan 3½% 1952 or after	JD	106	3 6 0	3 0 11
Funding 4% Loan 1960-90	MN	117½	3 8 1	2 19 4
Funding 3% Loan 1959-69	AO	103½	2 18 0	2 15 10
Victory 4% Loan Av. life 23 years	MS	116½	3 8 8	2 19 11
Conversion 5% Loan 1944-64	MN	120½	4 3 0	2 3 3
Conversion 4½% Loan 1940-44	JJ	111½	4 0 9	2 4 8
Conversion 3½% Loan 1961 or after	AO	108	3 4 10	3 0 9
Conversion 3% Loan 1948-53	MS	105½	2 16 10	2 9 3
Conversion 2½% Loan 1944-49	AO	102	2 9 0	2 4 3
Local Loans 3% Stock 1912 or after	JAJO	96½	3 2 2	—
Bank Stock	AO	375½	3 3 11	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	87½	3 2 10	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96	3 2 6	—
India 4½% 1950-55	MN	114⅓	3 18 7	3 3 11
India 3½% 1931 or after	JAJO	97	3 12 2	—
India 3% 1948 or after	JAJO	86	3 9 9	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118½xd	3 15 11	3 8 9
Sudan 4% 1974 Red. in part after 1950	MN	115½	3 9 3	2 14 7
Tanganyika 4% Guaranteed 1951-71	FA	114xd	3 10 2	2 16 9
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109½	4 2 2	2 15 1
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	109	3 13 5	3 7 0
*Australia (C'mm'nw'th) 3¼% 1948-53	JD	103	3 12 10	3 9 3
Canada 4% 1953-58	MS	111	3 12 1	3 3 8
*Natal 3% 1929-49	JJ	100	3 0 0	3 0 0
*New South Wales 3½% 1930-50	JJ	100	3 10 0	3 10 0
*New Zealand 3% 1945	AO	101	2 19 5	2 17 6
Nigeria 4% 1963	AO	114	3 10 2	3 4 8
*Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 2
South Africa 3½% 1953-73	JD	108	3 4 10	2 17 11
*Victoria 3½% 1929-49	AO	102	3 8 8	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	96	3 2 6	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	106	3 6 0	3 0 11
Leeds 3% 1927 or after	JJ	95	3 3 2	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	82	3 1 0	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	95xd	3 3 2	—
*Metropolitan Consd. 2½% 1920-49	MJSD	101	2 9 6	—
Metropolitan Water Board 3% "A" 1963-2003	AO	98	3 1 3	3 1 5
Do. do. 3% "B" 1934-2003	MS	99	3 0 7	3 0 8
Do. do. 3% "E" 1953-73	JJ	101	2 19 5	2 18 5
†Middlesex County Council 4% 1952-72	MN	114	3 10 2	2 18 10
† Do. do. 4½% 1950-70	MN	117	3 16 11	3 1 4
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	105	3 6 8	3 4 11
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	116½	3 8 8	—
Gt. Western Rly. 4½% Debenture	JJ	126½	3 11 2	—
Gt. Western Rly. 5% Debenture	JJ	137½	3 12 9	—
Gt. Western Rly. 5% Rent Charge	FA	134½	3 14 4	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	134½	3 14 4	—
Gt. Western Rly. 5% Preference	MA	122½	4 1 8	—
Southern Rly. 4% Debenture	JJ	116	3 9 0	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	115	3 9 7	3 2 11
Southern Rly. 5% Guaranteed	MA	134½	3 14 4	—
Southern Rly. 5% Preference	MA	122½	4 1 8	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.